

APPENDIX

Supreme Court, U. S.
FILED

AUG 5 1976

MICHAEL RODAK, JR., CLERK

IN THE
Supreme Court of the United States
October Term, 1975

No. 75-1318

CECLE G. PEARSON,

Appellant

—V.—

W. P. DODD; ERNESTINE
DODD, his wife: and
COLUMBIA GAS TRANSMISSION
CORPORATION

ON APPEAL FROM THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA

DOCKETED MARCH 15, 1976,
PROBABLE JURISDICTION NOTED JUNE 21, 1976

IN THE
Supreme Court of the United States

October Term, 1975

No. 75-1318

CECLE G. PEARSON,

Appellant

—v.—

W. P. DODD; ERNESTINE

DODD, his wife; and

COLUMBIA GAS TRANSMISSION

CORPORATION

**ON APPEAL FROM THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

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IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Civil Action No. 8310

DOCKET ENTRIES

Date	PROCEEDINGS
1968	
Oct. 15	By Check; Sun. & 3 Copies: Complaint
17	Return as to United Fuel Gas Co.
17	Return as to W. P. Dodd and Ernestine Dodd
Nov. 6	Notice of bona fide defense with return
15	Order; Stipulation
16	Separate Answer of W. P. Dodd and Ernestine Dodd, his wife
Dec. 2	Answer and Counterclaim of United Fuel Gas Company
21	Reply to Counterclaim of Defendant United Fuel Gas Company
1969	
Jan. 2	Interrogatories
10	Order; Stipulation
March 3	Objections to Interrogatories propounded by plaintiff to defendant, United Fuel Gas Co.; and Notice with Certificate of Service: United Fuel Gas Company's Answers to Interroga- tories, not objected to, propounded by plaintiff
July 3	Order; Memorandum of Opinion dated June 27, 1969
16	United Fuel Gas Co.'s Answers to Interroga- tories objected to, wherein objections were overruled

Date PROCEEDINGS

1969

Dec. 19 Discovery Depositions of Cecle G. Pearson;
Discovery Depositions of Myron Maurice Miller
and Joseph Calvin Crim

1971

July 9 Order substituting Columbia Gas Transmission
Corp. etc. as a party defendant in place of
United Fuel Gas Co.; Order; Motion for
substitution of party; Order filing stipulations
and Exhibits; Stipulations and Exhibits

1971

Nov. 5 By Check (Additional Clerk's fee to October
15, 1972)

1972

June 19 Judgment Order; Letter of Memorandum of
opinion dated April 17, 1972
21 Order granting 90 days Stay of Execution; Motion
of plaintiff with return

Sept. 8 Petition of Cecle G. Pearson, seeking appeal,
writ of error and supersedeas to Supreme
Court; By Check (Clerk's fee for indexing
record to Supreme Court of Appeals)

Oct. 4 Order from Supreme Court grant writ of error
and Supersedeas

6 Designation of record; Bond

Nov. 16 By Check (Clerk's fee for making transcript
of Supreme Court of Appeals)

1976

Jan. 13 Order from Supreme Court of Appeals affirming
Judgement of Circuit Ct. June 21, 1972

Date PROCEEDINGS

1976

Feb. 6 Notice of Appeal to the Supreme Court
10 Order From Supreme Ct. of Appeals suspending
the execution of judgment entered Dec. 19,
1975 in the Circuit Court for a period of
90 days
26 Bond from Supreme Court of Appeals of WV
27 Notice Of Appeal to the Supreme Court of the
United States, Affidavit of Service of Notice
of Appeal
March 10 Designation of Record

CLERK'S CERTIFICATE

Certified to be a true and correct copy of the original.

By /s/ Phyllis J. Rutledge
PHYLLIS J. RUTLEDGE
Clerk
Court Kanawha County, W. Va.

Opinion of the Supreme Court of Appeals of West Virginia, dated December 18, 1975. (See Appendix 1A Jurisdictional Statement.)

Judgment and Letter memorandum of opinion of the Circuit Court of Kanawha County, dated April 17, 1972. (See Appendix Page 26A Jurisdictional Statement.)

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed October 15, 1968]

COMPLAINT

1. The plaintiff, Cecle G. Pearson, is the owner of one-fourth (1/4th) of all the oil and gas and gasoline, and oil and gas substances in and underlying all that certain tract or parcel of land situate, lying and being near the source of the waters of Martin's Branch, in Union District, Kanawha County, West Virginia, more particularly described as follows, to-wit:

BEGINNING in an old road at a small sycamore and corner to the lands of James D. Kelley, and running north 86° 30' E. 74 feet to a stone in said creek; thence S. 41° 30' E. 107 feet to a stone at the upper side of the road; N. 50° E. 112 feet to a stone in a drain; S. 62° 30' E. 360 feet to a poplar in a hollow, corner to the lands of Ezell in the original line; thence with old line N. 24 E. 1270 feet to a white oak snag on top of the ridge corner to James Craff's land and Ed Lane; thence with the Craff line N. 32° 30' W. 610 feet to a black oak in said Craff's line corner to a tract surveyed for William S. Pugh; thence with a new made line dividing land of Sarah A. Pugh and William S. Pugh, N. 73° 45' W. 531 feet to a dead top chestnut on hillside; thence N. 76° 45' W. 662 feet to a hickory near top of point S. 75° 15' W. 1105 feet to a bunch of hickories on top of a ridge in the original line about 12 feet from the gas line; thence along the ridge S. 31° 30' E. 517 feet to a poplar and oak now gone

and corner to lands of James Kelley S. 21° 30' W. 21 feet to a stake in an old road and following said road S. 13° E. 255 feet to a white oak at the edge of said road; thence S. 55° 30' E. 185 feet to a stake in the road S. 78° E. 180 feet to a stake in the road S. 59° 30' E. 505 feet to a stake in said road S. 42° E. 378 feet to the place of Beginning, and containing Sixty-eight (68) acres, more or less; with such surface and surface rights, rights of way, rights and privileges necessary or convenient for prospecting, operating, drilling, extracting, mining, removing, storing, transporting and marketing said oil and gas, and gasoline and oil and gas substances.

2. The aforesaid mineral interest underlying the aforesaid parcel was conveyed to the plaintiff, Cecle G. Pearson, by H. C. Pearson, Jr., by deed dated February 20, 1937, and duly of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 436, at page 110.

3. By purported tax deed from William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, to one of the defendants, W. P. Dodd, which deed bears the date June 1, 1966, and which is duly of record in the aforesaid Clerk's office in Deed Book 1467, at page 378, the said William B. Maxwell, Deputy Commissioner, attempted to convey unto one of the defendants, W. P. Dodd, the mineral interest of the said H. C. Pearson, Jr. in land more particularly described as follows:

68 Acres, 1/8 Acre oil and gas interest, Waters Martins Branch, Union District, Kanawha County, West Virginia, being the same property conveyed to H. C. Pearson, Jr. by W. H. O'Dell and Minerva E. O'Dell, his wife, by deed dated February 8, 1937, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 428, at page 53, reference to which deed is here made for a more particular description of said property.

4. The plaintiff is informed and believes that the said William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands, purported to sell the aforesaid described lot by virtue of the fact that the interest of H. C. Pearson, Jr. was purportedly sold to the State of West Virginia in the year 1962 for the non-payment of property taxes thereon for the year 1961.

5. The plaintiff is informed that the said W. P. Dodd, one of the defendants, is contending that the purported deed from William B. Maxwell, Deputy Commissioner aforesaid, conveyed to the said defendant one-fourth (1/4th) of all the oil and gas and gasoline, and oil and gas substances owned by the plaintiff and described in the first paragraph of this complaint, which said claims of the said defendant are annoying and vexatious to the title of the plaintiff and thereby constitute a cloud upon the clear and perfect title of the plaintiff to the interest described in paragraph one (1.) of this complaint.

6. The plaintiff is informed and believes, and, therefore, alleges, that the purported delinquent tax sale in the name of H. C. Pearson, Jr., by the Sheriff of Kanawha County, West Virginia, in 1962 was a nullity. That the purported deed and the purported suit by William B. Maxwell, Deputy Commissioner, was a nullity and that the deed from William B. Maxwell, Deputy Commissioner, to the defendant, W. P. Dodd, is a nullity and includes no part of the aforesaid land owned by the plaintiff.

7. The plaintiff is informed and believes and, therefore, alleges that the defendant, United Fuel Gas Company, relying on the purported sale referred to in paragraph three (3.) entered into a lease ratification agreement with the defendants, W. P. Dodd and Ernestine Dodd, his wife, which is dated February 17, 1967, and recorded in the aforesaid Clerk's office in Lease Book 164, at page 314, which lease ratification agreement is based upon an oil and gas lease granted to the defendant, United Fuel Gas Company, by Marvin Null and Sarah Ann Null, his wife,

and Maxine H. O'Dell, Guardian, et al., dated December 27, 1957, describing the sixty-eight (68) acres described more fully in paragraph one (1.) of this complaint, and recorded in the aforesaid Kanawha County Clerk's office in Lease Book 145, at page 67. The said lease and ratification agreement were amended to provide for pooling for deep gas production by an agreement by and between Sarah Ann Null and Marvin Null, her husband, W. P. Dodd and Ernestine Dodd, his wife, and the United Fuel Gas Company, by agreement dated November 13, 1967, and recorded in the aforesaid Clerk's office in Lease Book 169, at page 727.

8. The plaintiff is informed and believes, and, therefore alleges, that the defendant, United Fuel Gas Company, in further reliance on the purported sale referred to in paragraph three (3.) caused to be executed a "Declaration-Notice of Unitization", which purported to unitize all the oil and gas interest underlying the sixty-eight (68) acre tract described in paragraph one (1.) of the complaint with the remainder of the oil and gas interest underlying the sixty-eight (68) acre tract and additional oil and gas interests in the immediate area totalling two hundred seventy (270) acres, and that said unitization agreement is dated January 10, 1968, and recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 170, at page 225.

9. The plaintiff is informed and believes, and, therefore, alleges, that the United Fuel Gas Company did obtain a permit from the Oil and Gas Division of the Department of Mines, State of West Virginia, dated February 19, 1968, bearing File No. KAN-2232, which well is located on the land and interest described in paragraph one (1.) of this Complaint, and which was drilled to completion in what is generally referred to as the Newburg Sand of Kanawha County, with a reported initial open flow capacity of production of natural gas after treatment, of one hundred million cubic feet of natural gas per day (100,000 mcf/day), according to a well completion record filed July 30, 1968,

with the aforesaid Oil and Gas Division of the West Virginia Department of Mines.

10. The plaintiff is informed and believes, and, therefore, alleges, that the United Fuel Gas Company, acting for itself and its lessors did, with full knowledge and notice of the rights and interests of the plaintiff in the sixty-eight (68) acres of oil and gas, and without the consent of the plaintiff, Cecle G. Pearson, proceed wilfully and intentionally under terms of the aforesaid agreement, void as to the plaintiff, to drill, equip and complete the aforesaid well without offering to the plaintiff a full one-fourth (1/4th) interest in the well as a non-consenting co-tenant, thereby damaging the interest of the plaintiff.

11. The plaintiff is informed and believes, and, therefore alleges, the gas well described in paragraph nine (9.) of this complaint has been, until the present date, in the continuous production of natural gas and certain other petroleum derivatives.

12. The plaintiff is informed and believes, and, therefore alleges, that the defendant, United Fuel Gas Company, has been improperly receiving payment from third parties for the aforesaid gas production and has improperly been making payments to the defendants, W. P. Dodd and Ernestine Dodd, his wife, under terms of the purported lease ratification agreement by W. P. Dodd and Ernestine Dodd, as well as making other unauthorized payments of money to other third parties from the sale of the gas and other petroleum derivatives underlying the parcel described in paragraph one (1.) of this complaint.

WHEREFORE, Plaintiff prays:

1. That the purported deed of conveyance from the said William B. Maxwell, Deputy Commissioner, to the aforesaid defendant, W. P. Dodd, bearing date June 1, 1966, may be set aside and declared void as against this plaintiff, as a cloud upon the title of this plaintiff.

2. That the purported oil and gas lease, purported ratification, and purported pooling agreement referred to

in paragraph seven (7.) of this Complaint may be set aside and declared void as against this plaintiff, as a cloud upon the title of this plaintiff.

3. That the purported "Declaration-Notice of Unitization" Agreement by United Fuel Gas Company, et als., may be set aside and declared void as against this plaintiff, as a cloud upon the title of this plaintiff.

4. That the full one-fourth (1/4th) interest of the plaintiff as a non-consenting co-tenant is one-fourth (1/4th) of the total amount actually received by the defendant, United Fuel Gas Company, for all the material severed from the well at the point of its ultimate conversion by the defendant, United Fuel Gas Company, without diminishing this amount by the plaintiff's proportionate share of the cost of production, including taxes, or allowing for the cost of improvements.

5. That an accounting be made to date for the plaintiff's full one-fourth (1/4th) interest as a non-consenting co-tenant with interest on this amount from the time said amount (s) was created.

6. That an accounting be made of the gross production of the well for all production to date and that a continuing accounting be made, which will allow for the plaintiff's full one-fourth (1/4th) interest.

7. That the interest of the plaintiff, Cecle G. Pearson, not be diminished by any payments, previously made, now being made, or which may in the future be made to W. P. Dodd, Ernestine Dodd, or any other third parties, by the defendant, United Fuel Gas Company.

8. And grant unto plaintiff such other, further and general relief as the Court may deem proper.

/s/ Rex Burford
 REX BURFORD
 Attorney for Plaintiff
 Suite 57-58 Capital City Bldg.
 Charleston, West Virginia

[Verification Omitted]

IN THE CIRCUIT COURT OF
 KANAWHA COUNTY,
 WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed December 2, 1968]

ANSWER AND COUNTERCLAIM
 OF THE DEFENDANT,
UNITED FUEL GAS COMPANY

FIRST DEFENSE

For the sake of brevity, the following terminology as used in this and all other Defenses in this answer, regardless of capitalization, shall have the following meanings and references:

"Deputy Commissioner" shall mean W. B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia.

"Subject Land" shall mean the tract or parcel of land described in paragraphs Nos. 1, 2 and 3 of the complaint.

"Interest claimed by plaintiff" shall mean a one-fourth of all the oil and gas and gasoline, and oil and gas substances in and underlying the tract or parcel of land described in paragraphs Nos. 1, 2 and 3 of the complaint claimed by the plaintiff, Cecle G. Pearson.

The complaint fails to state a claim against defendant upon which relief can be granted for the following reasons:

(1) The averments and admissions in the complaint show that plaintiff has no basis in fact for the relief sought in this action;

(2) There is no allegation of fact which, if true, would invalidate the deed described in paragraph 3 of the complaint from the Deputy Commissioner to W. P. Dodd, defendant herein.

(3) Plaintiff admits in paragraph 4 of the complaint that the interest claimed by plaintiff was sold to the State of West Virginia in the year 1962 for the non-payment of property taxes for the year 1961;

(4) The plaintiff in Paragraph 3 of the complaint admits that the deed from the Deputy Commissioner to W. P. Dodd, one of defendants, was executed for the purpose of conveying the interest claimed by plaintiff to W. P. Dodd.

(5) The allegations in paragraph 6 of the complaint that the aforesaid deed to W. P. Dodd, the "purported suit" by the Deputy Commissioner and the aforesaid tax sale are all nullities are conclusions not supported by any allegation of fact in the complaint;

(6) In paragraphs 1, 2 and 3 of her prayer, plaintiff asks that the aforesaid deed to W. P. Dodd and certain instruments to and by this defendant be set aside and declared void which is a claim for equitable relief. In paragraph 4 of the prayer, the complaint shows on its face that plaintiff seeks equitable relief while refusing and being unwilling to do equity.

SECOND DEFENSE

Each of the first twelve numbered paragraphs in this Second Defense will correspond to the same numbered paragraph in the complaint, and except as otherwise shown by the context, the averments and denials in each of said first twelve paragraphs of this Defense will apply to the averments and denials in the correspondingly numbered paragraph of the complaint.

1. This defendant denies that Cecle G. Pearson, the plaintiff, is the owner of one-fourth (1/4), or any other fraction, percentage or proportion, or the whole, of all

the oil and gas and gasoline, and oil and gas substances, or any of them, in and underlying the subject land.

2. This defendant admits that there is of record in the Office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 436, at page 110, dated February 20, 1937, an instrument which purports to be a deed from H. C. Pearson, Jr., to Cecle G. Pearson and which purports to convey a mineral interest underlying the subject land, but this defendant has no knowledge or information sufficient to form a belief regarding the validity of said deed or the efficacy thereof. This defendant is advised and believes that the plaintiff bases all her claims in this action on said alleged deed.

3. This defendant denies that the deed from the Deputy Commissioner to W. P. Dodd described in paragraph 3 of the complaint was an attempt to convey to said W. P. Dodd the mineral interest formerly owned by H. C. Pearson, Jr., in the subject land as described in paragraphs 1, 2 and 3 of the complaint, but to the contrary, this defendant avers that said deed was a valid deed from the Deputy Commissioner to said W. P. Dodd and actually and validly conveyed to said W. P. Dodd the mineral interest formerly claimed by H. C. Pearson, Jr., in the subject land, together with the interest claimed by plaintiff.

4. Defendant admits that the Deputy Commissioner sold the subject land; admits that such sale included all interest of H. C. Pearson, Jr., and the interest claimed by plaintiff and that such sale included all the title to the subject land and interests therein acquired by the State of West Virginia through the sale to it in the year 1962 for non-payment of property taxes thereon for the year 1961. This defendant avers that such sale, and the deed executed pursuant thereto, included all right, title and interest of the State of West Virginia, however acquired, in the subject land.

5. This defendant denies that the plaintiff owns any interest in subject land, denies that the claims of the

defendant, W. P. Dodd, are annoying or vexatious to the plaintiff, denies that plaintiff has any title in subject land and denies that the claims of the defendant, W. P. Dodd, constitute a cloud on the alleged title of the plaintiff, for the reason that plaintiff has no title to subject land. Except for those herein expressly denied, this defendant admits the allegations in paragraph 5 of the complaint.

6. This defendant denies the allegations contained in paragraph 6 of the complaint.

7. This defendant admits the allegations contained in paragraph 7 of the complaint.

8. This defendant denies that the sale referred to in paragraph 3 of the complaint was a "purported sale" as alleged in paragraph 8 of the complaint, but to the contrary says that said sale was a legal and valid sale, and this defendant avers and admits that in reliance on said sale it caused to be executed a "Declaration-Notice of Unitization", which not only purported to, but actually did, unitize all the oil and gas interest underlying the subject land with the remainder of the oil and gas interest underlying the subject land and additional oil and gas interests in the immediate area totaling two hundred seventy (270) acres, and that said unitization agreement is dated January 10, 1968, and recorded in the Office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 170, at page 225.

9. This defendant denies that its well is located on land or any interest therein of the plaintiff. Except for those herein expressly denied, this defendant admits the allegations contained in paragraph 9 of the complaint.

10. This defendant admits that United Fuel Gas Company, acting for itself and its Lessors did, without the consent of the plaintiff Cecle G. Pearson, proceed under the terms of its agreements, more particularly described in paragraphs 7 and 8 of the complaint, to drill, equip and complete its said well, as described in paragraph 10 of the complaint, without offering to the plaintiff a full one-fourth (1/4)

interest, or any other interest, in the well. Except for those herein expressly admitted, this defendant denies the allegations contained in paragraph 10 of the complaint.

11. This defendant denies the allegations of paragraph 11 of the complaint.

12. This defendant denies the allegations contained in paragraph 12 of the complaint.

13. This defendant denies that plaintiff is entitled to any of the relief sought in the prayer of said complaint, and defendant says that this action should be dismissed, and this defendant should have all of its costs in this behalf expended.

14. This defendant denies each and every allegation contained in the complaint not expressly admitted in this answer.

THIRD DEFENSE

1. This defendant repeats all denials and averments made in the Second Defense of this Answer as a part of this Third Defense.

2. The matters and issues in this action were finally adjudicated and settled by orders, judgments and decrees, all of which are now final, in the Circuit Court of Kanawha County, West Virginia, entered in Civil Action No. 6152 styled *State of West Virginia by W. B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, Plaintiff, v. L. (Lemuel) A. Whittington, et al., Defendants.*

3. This defendant says that the aforesaid action was instituted pursuant to the provisions and requirements of West Virginia Code, Chapter 11A, Article 4, *et seq.*, upon certifications from the Auditor of the State of West Virginia to the Deputy Commissioner, which certifications included the interest claimed by plaintiff, designated by the Auditor and in the pleadings in said Civil Action as Certification No. 9504.

4. This defendant says that H. C. Pearson, Jr., referred to in paragraph 2 of the complaint in Civil Action No. 8310, and predecessor in title to Cecle G. Pearson, plaintiff herein, and Cecle G. Pearson, as an unknown party and claimant, were proceeded against by publications duly made pursuant to an order of publication duly made in said action. By order entered in Civil Action No. 6152 on April 11, 1966, the title to the land and interest described as Certification No. 9504 and the interest of H. C. Pearson, Jr., and of the plaintiff Cecle G. Pearson was adjudged, ordered and decreed to be then vested in the State of West Virginia and subject to sale for the benefit of the school fund. The sale so ordered was duly held by the Deputy Commissioner and said Certification No. 9504 was there purchased by the defendant, W. P. Dodd. Such sale was duly reported to this Court by the Deputy Commissioner by his report dated May 25, 1966. By order of this Court in Civil Action No. 6152 duly entered on May 27, 1966, the Report of the Deputy Commissioner was ordered and adjudged approved, ratified and confirmed, and the sale of Certification No. 9504 to the defendant, W. P. Dodd, was thereby approved, ratified and confirmed, and the Deputy Commissioner was ordered to make, execute, acknowledge, record and deliver to W. P. Dodd a deed for Certification No. 9504. The Deputy Commissioner made, executed, acknowledged, recorded and delivered to W. P. Dodd such deed which is the deed referred to in paragraph 3 of the complaint by Cecle G. Pearson.

5. This defendant avers that the issue as to the validity of the interest claimed by plaintiff was determined in said Civil Action No. 6152 and that the judgments, orders and decrees entered in such action have determined that the plaintiff does not own the interest claimed by her. This defendant avers that the aforesaid judgments, orders and decrees are *res judicata* and bar the claimed right of plaintiff to maintain this action and bar all claims averred and relief sought in the complaint filed herein.

FOURTH DEFENSE

1. This defendant repeats all denials and averments made in the Second Defense of this Answer as a part of this Fourth Defense.

2. On March 20, 1968, with the knowledge of plaintiff, and in reliance on plaintiff's failure to object thereto or take other restraining action, this defendant entered on subject land described in paragraph 1 of the complaint, and in the exercise of good faith and due diligence, on March 26, 1968, defendant completed a producing gas well on subject land at a cost of \$104,500.87.

3. Plaintiff by such conduct is estopped to deny the validity of this defendant's (i) lease ratification agreement with W. P. Dodd and Ernestine Dodd, his wife, dated February 17, 1967, and duly of record in the Office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 164 page 314, (ii) amended lease agreement between Sarah Ann Null and Marvin Null, her husband, W. P. Dodd and Ernestine Dodd, his wife, and this defendant, dated November 13, 1967, and duly of record in said Clerk's Office in Lease Book 169 page 727, which said lease ratification agreement and amended lease agreement are described in paragraph 7 of the complaint, and (iii) Declaration - Notice of Unitization by this defendant dated January 10, 1968, duly of record in said Clerk's Office in Lease Book 170 page 225, described in paragraph 8 of the complaint.

FIFTH DEFENSE

1. This defendant repeats all denials and averments made in the Second Defense of this Answer as a part of this Fifth Defense.

2. On or before February 10, 1967, plaintiff had actual knowledge of the deed from the Deputy Commissioner to W. P. Dodd, referred to in paragraph 3 of the complaint, conveying to W. P. Dodd the interest claimed by plaintiff. On or before November 21, 1967, plaintiff had actual

knowledge of this defendant's lease ratification agreement with W. P. Dodd and Ernestine Dodd, his wife, dated February 17, 1967, and duly of record in said Clerk's Office in Lease Book 164 page 314 and amended lease agreement between Sarah Ann Null and Marvin Null, her husband, and W. P. Dodd and Ernestine Dodd, his wife, dated November 13, 1967, duly of record in said Clerk's Office in Lease Book 169 page 727 referred to in paragraph 7 of the complaint.

3. On March 20, 1968, with the knowledge of the plaintiff and in reliance on plaintiff's failure to object thereto or take other restraining action, this defendant entered on subject land described in paragraph 1 of the complaint, and in the exercise of good faith and due diligence, on March 26, 1968, defendant completed a producing gas well on subject land at a cost of \$104,500.87.

4. Plaintiff, therefore, is barred by laches from maintaining this action.

WHEREFORE, this defendant demands judgment that this action be dismissed, that plaintiff take nothing thereby and that this defendant receive its costs herein expended, and such other, further and general relief as this Court may deem proper.

**COUNTERCLAIM BY
UNITED FUEL GAS COMPANY**

This defendant alleges that while holding the subject land, described in paragraph 1 of the complaint, under its lease ratification agreement, amended lease agreement and Declaration-Notice of Unitization, described in paragraphs 7 and 8 of the complaint, and believing its said titles to be good and valid, this defendant made sundry permanent improvements in the amount of \$104,500.87 on subject land.

WHEREFORE, this defendant prays, in the alternative, that in the event that the complaint of the plaintiff is sustained for her claimed one-fourth (1/4th) interest in

subject land, that this defendant be allowed, against the plaintiff, for such improvements, the fair and reasonable value of one-fourth (1/4th) of its improvements in the amount of \$104,500.87 made on subject land.

/s/ Herbert W. Bryan
HERBERT W. BRYAN
/s/ Wm. Roy Rice
WM. ROY RICE
P. O. Box 1273
Charleston, W. Va. 25325
Attorneys for Defendant
United Fuel Gas Company

Of Counsel
C. E. Goodwin
P. O. Box 1273
Charleston, W. Va. 25325

[Certificate of Service Omitted]

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed January 2, 1969]

INTERROGATORIES

To: Wm. Roy Rice,
Attorney For Defendant
United Fuel Gas Company,
P. O. Box 1273,
Charleston, West Virginia.

The plaintiff, requests that the defendant, United Fuel Gas Company, answer (under oath), in accordance with Rule 33 of The West Virginia Rules of Civil Procedure, the following interrogatories:

DEFINITIONS

(A) "You" or "your" means the defendant corporation answering these interrogatories, its domestically domiciled subsidiaries and its merged or acquired predecessors, its present and former officers, agents and all other persons acting on behalf of the defendant corporation or such subsidiaries or such predecessors.

(B) "Document" means any written, recorded or graphic matter however produced or reproduced.

(C) "Identify" or "identification" when used in reference to an individual person means to state his full name if known and his present or last known position and business affiliation. "Identify" or "identification" when used in reference to a document means to state the type of document (e.g. letter, memorandum, telegram, chart etc.),

or some other means of identifying it, and its present location or custodian. If any such document was, but is no longer in your possession please state what disposition was made of it.

(D) Except where otherwise stated, each interrogatory requests information for the period from January 1, 1966, to October 16, 1968.

(E) "Point of ultimate conversion" means the point in the transmission of natural gas, or other hydrocarbon derivatives, where it loses its identity as the gas or part of the gas that comes from an individual well or in the alternative at the most remote point(s) that point(s) where it passes from your control and dominion.

(F) "Immediate surrounding area" means any place within a five mile radius of the location of the Sarah A. Null Well, Kanawha Permit No. 2232, issued by the Oil and Gas Division of the West Virginia Department of Mines.

(G) "The Well" means the Sarah A. Null Well, Kanawha Permit No. 2232, as issued by the Oil and Gas Division of the West Virginia Department of Mines, unless otherwise excluded by the context of the question.

(H) "Mineral interest" means any or all interest a person (whether an individual or a corporation) has or at one time had at or during the specified period, or to which a person (whether an individual or a corporation) has held or at any time at or during the specified period held a justiciable claim as would be dictated by the ordinary prudent practices used in the industry in obtaining the right to explore, drill and operate for natural gas production and also being such interest as is contemplated by the phrase, "... Notice of any adverse claim, ..." contained in paragraph six (6) of an agreement dated December 27, 1967, by and between Marvin Null and Sarah Ann Null, his wife, et. al. and United Fuel Gas Company, which agreement is referred to in paragraph seven (7) of the complaint. When referring to the mineral interest of the plaintiff it is to be assumed for the purposes of answering these interrogatories that this shall

mean a one-fourth (1/4th) of all the oil and gas and gasoline, and oil and gas substances in and underlying the tract or parcel of land described in paragraph number one (1) of the complaint.

I. ATTEMPTS BY THE DEFENDANT, UNITED FUEL GAS COMPANY, TO LEASE OR OTHERWISE OBTAIN ALL OR PART OF THE INTEREST OF THE PLAINTIFF, CECLE G. PEARSON, IN A MINERAL INTEREST DESCRIBED IN PARAGRAPH ONE (1) OF THE COMPLAINT, AND OTHER POLICY CONSIDERATIONS.

(1) State whether you communicated orally during the period from January 1, 1967, to March 26, 1968, with the plaintiff, her husband, H. C. Pearson, Sr., or any other person acting as agent or purporting to act as agent or otherwise on behalf of the plaintiff, or with any other intermediary, through statements referring to or relating in any way to the arrangement of a lease of any or all of the mineral interest of the plaintiff.

(2) As to each instance involving an affirmative answer to paragraph one (1), immediately preceding, state as to each communication:

- (a) whether made in person or by telephone;
- (b) the date and place;
- (c) the content of the communication;
- (d) whether or not a written record of the communication was made as disclosed in any corporate or internal record;
- (e) an identification of each person who participated in the communication or who had knowledge thereof;
- (f) an identification of each document referring or relating to the subject matter of subparagraph (d);
- (g) what facts compelled or caused this approach(s) as described in paragraph number one (1) to be made.

(3) State whether or not your company has or has had any policy concerning drilling a gas well where it has not been possible to obtain a lease or other agreement to drill a gas well from a nonconsenting cotenant in dealing with

mineral interests where all other outstanding interests were under lease by you, and successful exploration for natural gas in commercially producible quantities had been undertaken and was continuing to be undertaken by you and your competitors in the immediate surrounding area?

(4) As to any affirmative answer to paragraph (3), immediately preceding, please identify and state this policy.

(5) State your policy with respect to the retention of records and identify any directive or other writing which sets forth such policy.

II. PRODUCTION AND PRODUCTIVE CAPACITY OF THE WELL AND WELLS IN THE IMMEDIATE SURROUNDING AREA.

(1) Has the well been produced at any time between March 26, 1968, and the date of this interrogatory?

(2) If the answer to paragraph number one (1) is yes, please state the production in thousand cubic feet of gas or other unit of measure used in the industry for commonly used accounting periods falling between March 26, 1968, and the date of this interrogatory.

(3) To whom is the production of this well sold?

(4) If more than one product is sold from the well, please identify all such production, according to commonly used identification in the industry.

(5) What price has been obtained for all such production as identified in paragraph four (4) immediately preceding?

(6) If the gas has been produced from the said well, and is put into your line(s), please state the point of the ultimate conversion of this gas?

(7) At this point of ultimate conversion, referred to in paragraph six (6), immediately preceding, what price is placed by you on the gas produced from the well?

(8) How is the price referred to in paragraph seven (7), immediately preceding, computed by you?

(9) For each of the following wells referred to by permit

numbers in subparagraph (d), in this paragraph, in Putnam and Kanawha Counties, West Virginia, respectively, as said numbers are issued by The Oil and Gas Division of the West Virginia Department of Mines, please state the following:

(a) do you have a contract to purchase the gas produced from the well?

(b) if the answer to subparagraph (a) is yes, please state whether or not there is any document referring to this agreement(s)?

(c) if a written document(s) exists as referred to in subparagraph (b), please give an identification of each document referred to or relating to the subject matter or subparagraph (b)?

(d) the wells referred to for which an answer to subparagraphs (a), (b) and (c), is requested are numbered according to permit numbers as follows:

Put-725, Put-726, Put-727, Put-731, Put-732, Put-735, Put-739, Put-741, Put-743.

Kan-454-D, Kan-667-D, Kan-2084, Kan-2093, Kan-2094, Kan-2095, Kan-2097, Kan-2098, Kan-2106, Kan-2111, Kan-2115, Kan-2125, Kan-2152, Kan-2155, Kan-2160, Kan-2162, Kan-2174, Kan-2176, Kan-2178, Kan-2179, Kan-2180, Kan-2181, Kan-2182, Kan-2187, Kan-2190, Kan-2191, Kan-2192, Kan-2196, Kan-2199, Kan-2200, Kan-2204, Kan-2206, Kan-2207, Kan-2210, Kan-2211, Kan-2214, Kan-2217, Kan-2220, Kan-2221, Kan-2223, Kan-2224, Kan-2226, Kan-2228, Kan-2230, Kan-2231, Kan-2297.

(10) For each of the following wells referred to by permit numbers in subparagraph (d), in this paragraph in Kanawha County, as said numbers are issued by The Oil and Gas Division of the West Virginia Department of Mines, please state the following:

(a) do you have a contract to purchase the gas produced from the well?

(b) if the answer to subparagraph (a) is affirmative,

please state whether or not there is any document referring to this agreement(s)?

(c) if a written document(s) exists as referred to in subparagraph (b), please give an identification of each document referred to or relating to the subject matter of subparagraph (b)?

(d) the wells referred to for which an answer to subparagraphs (a), (b) and (c), is requested are numbered according to permit numbers as follows:

Kan-2215, Kan-2234, Kan-2235, Kan-2243, Kan-2244, Kan-2245, Kan-2248, Kan-2250, Kan-2258, Kan-2260, Kan-2263, Kan-2265, Kan-2266, Kan-2276, Kan-2277, Kan-2279, Kan-2284, Kan-2285, Kan-2287, Kan-2289, Kan-2291, Kan-2293, Kan-2294, Kan-2295, Kan-2296, Kan-2298, Kan-2302, Kan-2306, Kan-2310, Kan-2314.

(11) Does a contractual arrangement exist to sell the production from the Sarah A. Null Well, Permit No. 2232, previously defined as the well?

(12) If a written document exists, reciting any agreement as may be referred to in paragraph (11), immediately preceding, please give an identification of each document(s) referring to or relating to the subject matter of paragraph (11), immediately preceding.

(13) If the following estimate has been made by the defendant, what is the estimated commercial life of the well?

III. COST AND GEOLOGICAL REASON FOR LOCATION OF THE WELL

(1) Please state whether a document exists itemizing the cost of drilling, equipping, and completing the well?

(2) If the answer in paragraph (1), immediately preceding, is affirmative, please give an identification of each document referred to in the preceding paragraph.

(3) Please state whether or not any geological reports were used to determine in any way the location of the well on the property described in paragraph (1) of the complaint.

(4) If the answer to paragraph (3), immediately preceding, is affirmative, please give an identification of each document to which reference is made.

(5) Were there any reasons from the standpoint of drilling a successful, commercially producible well, using geological considerations, but not relying on the geological consideration as a sole criteria, why it was better to locate the well site on the Sarah A. Null 68 acres than on any other piece of land or mineral interest in the unitization agreement recorded in the Office of the Clerk of the County Court of Kanawha County in Lease Book 170, at page 225, which is referred to in paragraph (8) of the complaint.

(6) If the answer to paragraph (5), immediately preceding is affirmative, please state the reasons.

(7) Has the well ever been produced at a rate of flow of natural gas from the Newburg Sand, which exceeded its initial open flow capacity as reported before fracturing?

(8) Is it, contemplated that the well will be produced beyond its rated initial open flow capacity before fracturing at any time in the future?

(9) If the answer to both paragraphs (7) or (8) immediately preceding is negative, please state the reasons for the fracturing process?

(10) Did the decision to fracture the well have anything to do with any proration of production policy initiated or followed by you in the development of the immediate surrounding area?

(11) If the answer to paragraph (10) immediately preceding is affirmative, please state the policy which caused the decision to fracture the well?

IV. RATIFICATION AGREEMENT

Upon what information obtained at any time after January 1, 1956, did you base the following recital contained in a lease ratification agreement referred to in paragraph (7) of the complaint by and between United Fuel Gas Company, and W. P. Dodd and Ernestine Dodd, his

wife, which is dated February 17, 1967, and recorded in the Office of the Clerk of the County Court of Kanawha County, in Lease Book 164, at page 314, which recital states as follows:

"Whereas, one Cecle G. Pearson owned an interest in the aforesaid tract of land, but did not join in the said lease agreement of December 27, 1957, and,"

V. PRORATION OF THE PRODUCTION FROM WELLS IN THE IMMEDIATE SURROUNDING AREA.

(1) Do you have a policy of proration of production from all wells listed in paragraph (9) of Interrogatory II, which are connected to your gathering system?

(2) Do you have a policy of proration of production from all wells listed in paragraph (10) of Interrogatory II, which are connected to your gathering system?

(3) If the answer to paragraph (1) or (2) immediately preceding is affirmative, please state and describe this policy in either instance of an affirmative answer and consecutively in the event of two affirmative answers.

(4) Do you have or plan to have a policy of proration of production from wells drilled in the immediate surrounding area which are not included in either paragraphs (9) or (10) of Interrogatory II?

(5) If the answer to paragraph (4) immediately preceding is affirmative, please state this policy.

(6) Is production, if any, from the Sarah A. Null Well, Kan-2232, based on any policy of proration of production by you?

(7) If the answer to paragraph (6) immediately preceding is affirmative, please state this policy.

Dated this 31st day of December, 1968.

/s/ Rex Burford
REX BURFORD
 Attorney for Plaintiff
 Suite 57-58, Capital City Bldg.
 Charleston, West Virginia 25301

[Certificate of service omitted]

**IN THE CIRCUIT COURT OF
 KANAWHA COUNTY,
 WEST VIRGINIA**

Civil Action No. 8310

[Title Omitted]

[Filed March 3, 1968]

**UNITED FUEL GAS COMPANY'S
 ANSWERS TO INTERROGATORIES,
 NOT OBJECTED TO,
PROPOUNDED BY THE PLAINTIFF**

TO: Rex Burford

Attorney at Law

Suite 57-58, Capital City Building

Charleston, West Virginia 25301

The undersigned is advised and believes that Interrogatories Nos. I (2) (c) and (g), (3), (4), (5); II (7), (8), (9), (10), (13), III (6), (8), (9), (10), (11); IV and V are subject to objections by this defendant duly served on the plaintiff on February 28, 1969, and the undersigned is making objection thereto and is not purporting to answer such interrogatories to which objections have been made.

This defendant, United Fuel Gas Company, a corporation, by T. P. Peyton, its Vice President, hereby answers interrogatories, not objected to, filed in this cause by the plaintiff, and numbered respectively, as follows:

I.

(1) During the period from January 1, 1967, to March 26, 1968, this defendant communicated orally, on one occasion, with H. C. Pearson, Sr., plaintiff's husband, and Cullen G. Hall, Attorney at Law, on two separate occasions, both parties acting as agent or purporting to act as agent or otherwise, as stated, on behalf of the plaintiff, referring to or relating to a lease of any of the mineral estate that the plaintiff might have.

(2) (a) (b) (d) (e) and (f): On January 29, 1968, Joseph C. Crim, Superintendent--Land, Leasing and Right-of-Way, called H. C. Pearson, Sr., by telephone. *Pearson was informed that United Fuel Gas Company had a lease agreement from W. P. Dodd, et ux., and that United Fuel desired to locate a well on the subject tract of 68 acres.* Mr. Pearson advised us to contact the Pearsons' attorney, Cullen G. Hall. Except for notes made by Joseph C. Crim, no written report of the communication was made.

On February 6, 1968, Joseph C. Crim talked with Cullen G. Hall, by telephone and repeated to him our desires with reference to subject 68 acres. Except for notes made by Joseph C. Crim, no written record of the communication was made.

Several days later Cullen G. Hall contacted Joseph C. Crim by telephone. Except for notes made by Joseph C. Crim, no written record of the communication was made.

II.

(1) The Sarah A. Null well was turned on April 16, 1968, and was produced from that date to December 31, 1968.

(2) The production from the Sarah A. Null well from April 16, 1968, to January 2, 1969, was 2,039,144 Mcf of gas.

(3) Since the Sarah A. Null well was drilled by United Fuel Gas Company, the production from this well has not been sold and is not being sold to any single customer, but it is being sold after commingling with other gas, as explained in (6) below. However, James S. Ray, a joint operator with United Fuel Gas Company, is entitled to 30.7747% of the production from the Sarah A. Null well by virtue of Ray's holding, as Lessee, other acreage in the area going to make up the 270 acre unit on which the Null well was drilled. Ray's share of the production is being sold to United Fuel Gas Company.

(4) Distillate from the Sarah A. Null well is being sold.

(5) United Fuel Gas Company receives a net price of 5¢ per gallon for all such distillate sold by it.

(6) The gas produced from the Sarah A. Null well is commingled with other gas produced and purchased by United Fuel Gas Company at the junction of United Fuel Gas Company's Line AW-9486 4-inch with Line A-181 10-inch.

(11) A Contractual arrangement does exist for James S. Ray to sell his 30.7747% of the production from the Sarah A. Null well to United Fuel Gas Company.

(12) United Fuel Gas Company's Contract No. 6911 with James S. Ray dated March 26, 1968.

III.

(1) A document exists itemizing the costs of drilling, equipping and completing the Sarah A. Null well.

(2) Work Order No. 1805-2861-12 identifies the document itemizing such costs.

(3) Within this defendant's understanding of the meaning of the term "geological reports," such were not used to determine the location of the Sarah A. Null well.

(4) Negative answer to (3) renders further answer unnecessary.

(5) Yes.

(7) The Sarah A. Null well has never been produced at a rate of flow which exceeded its initial open flow capacity as reported before fracturing.

This 28th day of February, 1969.

/s/ T. P. Peyton
T. P. Peyton
Vice President

[Verification and Certificate of Service Omitted]

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

(Filed July 16, 1969)

UNITED FUEL GAS COMPANY'S
ANSWERS TO INTERROGATORIES
OBJECTED TO, WHEREIN
OBJECTIONS WERE OVERRULED

TO: Rex Burford
Attorney at Law
Suite 57-58, Capital City Building
Charleston, West Virginia 25301

This defendant, United Fuel Gas Company, a corporation (hereinafter sometimes called "United Fuel"), by T. P. Peyton, its Vice President, hereby answers interrogatories, filed in this cause by plaintiff, not previously answered, but objected to, wherein objections were subsequently overruled, and numbered respectively as follows:

II.

(7) At the junction of United Fuel's Line AW-9486 4-inch with its Line A-181 10-inch, where the gas produced from the Sarah A. Null well is commingled with other gas produced and purchased by United Fuel, the price for gas is Twenty-eight Cents (28¢). That is the price being paid by United Fuel to James S. Ray for his 30.7747% of the production from the Sarah A. Null well, which price was arrived at by negotiations between the parties to the contract, and is the maximum area rate level prescribed by the Federal Power Commission as the initial price of gas sold

under a new contract in West Virginia and is the rate the Federal Power Commission would authorize (and has authorized) without a price condition or suspension.

(13) The estimated commercial life of the Sarah A. Null well, involving many judgment factors and subject to many incalculable contingencies (such as, for example, drowning-out, conversion to storage, etc.) is four to five years.

III.

(6) The reasons from the standpoint of drilling a successful, commercially productive well, using geological conditions, but not relying on the geological consideration as a sole criteria, why it was better to locate the well site on the Sarah A. Null 68 acres than on any other piece of land or mineral interest in the unitization agreement recorded in Lease Book 170 at page 225 are: the location of other lands in the area, the surface terrain of the well location site, accessibility to the well location site, and the expense of making the well location site and gaining access to the same, when compared with alternate sites, were considered in locating the well on the Sarah A. Null 68 acres.

(10) The decision to fracture Sarah A. Null well had something to do with proration of production by United Fuel Gas Company in taking gas from the immediate surrounding area.

(11) Gas taken by United Fuel from the Rocky Fork Field, wherein the Sarah A. Null well is located, is taken on a prorata basis.

Due to the limited daily pipeline capacity and the large open flow of wells drilled in the Rocky Fork Field, in an effort to give a fair treatment to all operators from whom United Fuel purchases gas produced from the Field, an absolute open flow is determined by United Fuel for each such well and for its own wells in the Field, prior to initial delivery therefrom, by Isochronal Multipoint Test Method and in accordance with the Interstate Oil Compact Commission Manual of Back-Pressure Testing of Gas Wells,

section III, page 8, dated December, 1962. Additional wells in the Rocky Fork Field from which United Fuel purchases gas and its own wells will be tested in the same manner.

United Fuel plans to take an aggregate volume of 40,000 Mcf of gas per day from the Rocky Fork Field during the winter months, exclusive of volumes of gas previously contracted for by United Fuel from Jamaco Properties, Inc. (Jamaco), by contract dated January 12, 1967, known and designated as Contract # 6770. Subject to the conditions, provisions and exceptions of its form gas purchase contract, United Fuel agrees to take a pro rata share of such 40,000 Mcf per day from each well in the Field from which United Fuel is receiving gas (which term as used in its contract will include its own wells in the Field), except the well owned by Jamaco, as determined by the ratio of the absolute open flow of such well to the total absolute open flow of all the wells in the Field from which United Fuel is receiving gas, when the total deliverable production of such wells equals or exceeds 40,000 Mcf per day. Such pro rata share of 40,000 Mcf per day shall be the allowable daily delivery for such well.

This 15th day of July, 1969.

/s/ T. P. Peyton
T. P. PEYTON
Vice President

[Verification and Certificate of service omitted]

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed December 19, 1969]

DISCOVERY DEPOSITION OF CECLE G. PEARSON

[See p.p 4-9 of Reporter's Transcript]

Q Mrs. Pearson, starting at the time that you acquired the property from H. C. Pearson, Jr. by deed, let's say up to 1960, how were the taxes paid for the 68 acre mineral interest that you are claiming? A My husband always paid the taxes. I never paid a tax in my life.

Q It is fair to say that if the taxes were paid, your husband paid them? A My husband paid the taxes.

Q Is it fair to say that if the taxes assessed against the property weren't paid, that was your husband's responsibility also? A I will say that.

Q Mrs. Pearson, along about 1961, assuming for the sake of the question, that the 1961 taxes were not paid, do you have any recollection of any reason why the 1961 taxes were not paid? A None whatsoever.

Q Mrs. Pearson, have there been any contacts directly by you to United Fuel Gas Company concerning your claim in the 68 acres we are talking about? A I don't just exactly understand that now.

Q Let's say as recently as starting in 1966 and

coming up to the present time, have you personally, in person or by phone, or by letter made any contacts to United Fuel concerning your interest in the 68 acres? A If there was ever any contact, if they ever called me, I referred them to my husband. I never talked to them myself. I said, "You will have to talk to my husband." He always took care of things like that.

Q You never initiated any contacting to United Fuel? A No; not myself.

Q Mrs. Pearson, is it fair to say that these contacts, the alleged contacts by Mr. H. C. Pearson, your husband, to United Fuel Gas Company would have been on your behalf? A Oh yes.

Q And would they be at your direction? A Yes; and his direction too, because I just depended entirely on him.

Q These contacts by Mr. Pearson to United Fuel have been made as your agent? A Yes; that is right.

MR. RICE: That is all.

EXAMINATION BY MR. HAMB

Q Mrs. Pearson, you have stated earlier that at the time your son conveyed this interest to you that he was ill. Was he over the age of twenty-one at that time? A Yes.

Q What was the nature of his illness? A Tuberculosis.

Q Was that an absolute conveyance to you, or were you to reconvey it to him at a later time? A Oh, no; absolutely.

Q What consideration, if any, did you pay for the transfer? A None.

Q Then it was a gift? A It was a gift.

Q From that time up until 1961, the taxes were paid on this property, I think you stated, by your husband? A That is right.

Q What do you understand to be your interest under the deed your son gave you? A Well, I would say whatever interest there was there.

Q Then you knew at that time that you were the owner of an undivided one-fourth interest? A Yes, sir.

Q Mrs. Pearson, why were the taxes not paid for the year 1961? A Well, you will have to ask my husband because I never pay taxes.

Q Did you know that during the year 1962 that the property was sold to the State for non-payment of the 1961 taxes? A No; I didn't know anything about it.

Q When did you first become aware of that? A Well, it seems as though someone from United Fuel called and said it had been sold and someone had bought it — Mr. Hamb — no; Mr. Dodd had bought it.

Q When was this, Mrs. Pearson, as best you recall? A I can't remember.

Q Do you recall if it was before or after United Fuel completed the drilling of a well on this tract? A Oh, before.

Q How long before? A I don't know when the well was drilled and I can't say how long, but it was months before.

Q During the time that your husband was, in fact, paying taxes on this property, was it your intention to have him pay taxes on your full interest in the property? A He has always paid taxes. I know nothing about taxes.

Q Do you understand that after the year 1962 when the property was sold to the State, that you had a period of time during which you might redeem it by paying it to the Auditor of this State? A Well, I didn't know anything about the taxes being delinquent.

Q Have you ever had any conversation with Mr. Dodd? A No; I have never talked to Mr. Dodd.

Q What evidence do you have to show that the well of United Fuel Gas Company is, in fact, located on the tract you have an interest in? **A** What evidence do I have that it isn't?

Q That it is. **A** Well, I have a map which Mr. Burford showed me that it was on.

Q When did you first ascertain that the well was located on the tract you had an interest in? **A** When Mr. Burford informed me.

Q Recently you caused a Redemption Certificate to be issued by the State Auditor; is that correct? **A** I guess my husband took care of that. I know that I know about it. He took care of all of this affair.

Q What— **A** Whatever my husband did, he did it for me.

[See p. 10 of Reporter's Transcript]

Q What is your address? **A** 582 Strawberry Road.

Q That is in Kanawha County? **A** Yes, sir.

Q How long have you lived at that address? **A** We've lived there about 21 years, soon be 22 years.

Q During the past 21 or 22 years, have you lived at any other address? **A** No.

Q Have you ever lived outside of the State of West Virginia? **A** No.

[See p.p. 10 and 11 of Reporter's Transcript]

Q Mrs. Pearson, has your address recently been changed? **A** Yes; it has, for the last few months.

Q What is the new address? **A** The new address is what I gave him.

Q What was the old address? **A** Route 1, Box 51.

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed December 19, 1969]

DISCOVERY DEPOSITION OF
HENRY CLINTON PEARSON

[See p.p. 11-17 of Reporter's Transcript]

Q Please state your name. **A** My full name or the way I usually write checks?

Q Your full name. **A** Henry Clinton Pearson.

Q How old are you? **A** I was eighty-four years old on May 2.

Q What is your present address? **A** 582 Strawberry Road.

Q Mr. Pearson, when you and I were getting acquainted, I got the impression that you have some background in oil and gas work and dealings. Would you tell me what that background is? **A** Well, do you want it all?

Q Just start generally and when we get enough, we will terminate it. **A** I spent almost sixteen years with Ohio Fuel Oil Company.

Q In what capacity? **A** As engineer and Land Department man. I had charge of both of those departments for at least twelve years.

Q Are you trained as a civil engineer? **A** Yes, sir.

Q When did you leave Ohio Fuel? **A** I left them in May of 1927.

Q Has your experience in oil and gas work continued from 1927 up until the present time? **A** Yes; to some extent.

Q What is the nature of that experience? **A** Well, I own properties, oil and gas properties in Kentucky and some in West Virginia. I have helped drill several wells with your company.

Q Mr. Pearson, do you own a number of tracts of land and have them under lease to sundry companies in this area? **A** Well, a few years ago I expect I had fifty, sixty or seventy tracts; but I sold most of my tracts in Jackson County to Star Gas Company, six or seven years ago — that is just guessing. I have several pieces leased to your company.

Q Mr. Pearson, you say you drilled several wells? **A** In other words, I had a working interest with Mullins Gas Company and a few with United Fuel.

Q Did you actually drill the wells? **A** No, sir.

Q You have an interest in the seven-eighths working interest? **A** I have what I call an operating or a working interest. Of course, I have some royalty interests.

Q Mr. Pearson, Mrs. Pearson has said that you took care of the taxes on the tract of land we are talking about, the 68 acres. Would you tell us briefly the history of the payment of the taxes on that tract of land? **A** Well, I can't tell you the whole history. I can tell you this: I paid those taxes for years and years. Here is the way I have handled it. I have always notified the Sheriff and the Assessor of my address, where to send my tax notices, and evidently I didn't get no notice or I would have paid it.

Q With reference to the 68 acre tract of land, do you recall the deed from H. C. Pearson, Jr. to Mrs. Cecele Pearson? **A** Yes; he deeded a number of tracts, some in Kentucky, some out through Poca and everywhere.

Q Let's say in 1938 coming towards the year 1960, how were the taxes assessed on the 68 acres of land? **A** H. C. Pearson, Jr.

Q Did you look after the payment of that tax ticket for the years 1937 to 1960? **A** Yes, sir.

Q That was your obligation? **A** Yes; I paid them. Anytime I got a tax notice, I made a check for it and paid it.

Q You knew you had to have a tax ticket on the 68 acre interest? **A** I knew there was supposed to be one.

Q You knew you were getting one? **A** I would say for twenty or twenty-five years I did.

Q Starting in 1937? **A** It wouldn't be in effect before 1938. That deed wasn't made until 1937 to her.

Q But the tax ticket would be made out to H. C. Pearson, Jr. for the 68 acre mineral interest that this litigation is about and you, Mr. Pearson, would look after the payment of that tax ticket? **A** Well, it did come that way. It shouldn't have come back that way. It should have come out in her name. I paid them.

Q It did come out in H. C. Pearson Jr.'s name? **A** That is right.

Q Would you recall who paid the 1958 taxes, if they were paid? **A** '58?

Q 1958. **A** I must have paid them. I paid all of them that came. The one didn't come.

Q If they were paid in 1959 in H. C. Pearson Jr.'s name, you would have paid them? **A** That is right.

Q If they were paid in 1960 in H. C. Pearson Jr.'s name, you would have paid them? **A** I paid them all.

Q We are both familiar with the fact that the tax ticket in H. C. Pearson Jr.'s name for the 68 acres mineral interest in 1961 was not paid. **A** I didn't know that.

Q We both know that W. P. Dodd bought that interest at a tax sale; don't we? A That is what I have been informed.

Q Now, Mr. Pearson, do you recall why that tax ticket was not paid? A No; I do not — just an oversight, purely an oversight.

Q If that tax ticket in the name of H. C. Pearson, Jr. for the 68 acre mineral interest would have come to you, or if you had been familiar with it you would have paid it? A If it had come to me, I would have paid it; yes.

Q As an assessment against the interest that Mrs. Cecele Pearson claimed? A I am still paying taxes on everything she owns out there.

Q What is the answer to my question? A What is the question?

Q My question is if you had been familiar or had known about a tax ticket in the name of H. C. Pearson, Jr. for the year 1961 for the 68 acre mineral interest, you would have paid that tax ticket as an assessment against Mrs. Cecele Pearson's property? A Do I understand his question? What does he mean by assessment against Mrs. Pearson?

Q Well, Mrs. Pearson claimed to own the 68 acres. A She did own it.

Q Let's say that she did own it. If you had known of a tax ticket in H. C. Pearson, Jr.'s name, in his name but against the 68 acres that Mrs. Cecele Pearson claimed and owned, then you would have paid it? A Absolutely.

* * * * *

[See p.p. 27-32 Reporter's Transcript]

Q Mr. Pearson, do I understand that during the entire time your wife held the title to an undivided one-fourth interest in this 68 acre tract, that you personally paid all the taxes up to the year 1960? A That is true.

Q You paid those taxes for your wife's interest in that property? A That is true.

Q Now, you stated earlier that you had a conversation with Mr. Miller from United Fuel Gas Company during the approximate period of February of 1967 concerning this matter. A I don't have any recollection of that conversation. The only one I have is on November 21, 1967.

Q Would that be Mr. Jack Miller? A I don't know his first name. He might have told me at the time but I don't recall. He did tell me he was connected with United Fuel Gas Company.

Q You stated, I believe, at that time you first obtained knowledge that your undivided one-fourth interest had been sold for taxes and purchased by Mr. Dodd? A That is the first knowledge I had.

Q Since November of 1967, have you personally made any contact with Mr. Dodd? A I never had any contact with him. I wouldn't know him if he walked in here.

Q Have you ever made any demand on him for the return of your interest, either personally or through an attorney? A That is in the hands of our attorney, Mr. Cullen G. Hall.

Q Now, the fact that this property was assessed in the name of H. C. Pearson, Jr. made no difference to you in the payment of these taxes; did it? A No; on a lot of other property I paid his taxes.

Q Knowing full well that the property actually belonged to your wife, though it was assessed in his name, you paid it as your wife's property? A That is right.

Q When you paid taxes on this piece of property, you were paying the taxes on her full interest, whatever it may have been? A I think the tax ticket said a one-fourth interest.

Q You were paying on a one-fourth interest as you were paying the taxes? A A great number of years.

Q Did you ever have any conversation with anyone in the Kanawha County Assessor's Office concerning the fact that the property was assessed in the name of H. C. Pearson, Jr. when it was, in fact, the property of your wife? **A** I don't recall of any.

Q You never made any objection to that? **A** Why should I? I was paying all his taxes and other expenses for him.

Q Mr. Pearson, following your conversation in November of 1967 with Mr. Miller of United Fuel, you caused a redemption to be assessed in the State Auditor's Office concerning an undivided interest in this tract of land. Would you tell us when you concluded to take that action? **A** That was concluded by our attorney, he made the redemption, Mr. Hall.

Q Did you participate in any way with making the redemption? **A** I approved it.

Q What was your reason for taking that action? **A** That was counsel's advice, Mr. Hall.

Q Did you employ Mr. Hall to take care of that redemption for you? **A** That is a silly question. I told you the whole thing was turned over to Mr. Hall along the latter part of November in 1967 or early December. It was in his hands then.

Q Mr. Pearson, I will ask you again: Did you request Mr. Hall to make the redemption; yes or no? **A** He talked it over with me and I approved it.

Q Mr. Pearson, you personally own real restate; do you not? **A** Yes.

Q You have owned real estate, I take it, for a good number of years? **A** Well, 1904 to be exact, off and on a long time.

Q Your wife has always owned property, at least during the entire period of your marriage? **A** No; not the entire period. She has owned oil and gas interest since 1936 or 1937, both here and in Kentucky.

Q Both of you have understood that you are under an obligation to pay real estate taxes on property which you owned? **A** That is a natural thing, of course. Naturally I understand it.

Q You understand that if the taxes are not paid on your property when assessed, that they will be sold by the Sheriff of the county where the property is situated. **A** That is customary, I think.

Q But you have been aware of that; haven't you, for a good number of years? **A** I wouldn't say how many years, but I have always known taxes had to be paid sooner or later.

* * * * *

[See p. 32 Reporter's Transcript]

A Yes; the Sheriff did not mail the tax notice. It was an oversight.

Q Let me ask you: Did you ever receive any notice from William B. Maxwell, III, as a Deputy Commissioner. **A** No.

Q Did your wife ever receive such notice? **A** No; none whatsoever.

Q Did you ever make an inquiry of Mr. Maxwell's office concerning the amount to redeem the property? **A** No.

Q Did you ever make an inquiry of Mr. John Fisher, State Auditor, to redeem the property? **A** You mean the property in question?

Q Yes.

* * * * *

[See p. 41 Reporter's Transcript]

[A] * * * He requested that we make a lease to United Fuel Gas Company covering Mrs. Pearson's interest in that 68 acre Null tract of land.

Q What was the purpose of that conversation? **A** He just told me he wanted Mrs. Pearson and I to lease her

interest to the United Fuel Gas Company in the 68 acre Null tract.

Q Did you also make a written memorandum of this conversation with Mr. Crim? A That is right; I did.

Q Did Mr. Crim tell you anything else at that time concerning your position, or your wife's position and Mr. Dodd? A The only thing he said was he wanted us to make a lease and Mrs. Pearson and I could fight it out with the Dodds.

Q Were these his exact words? A That is the way I remember it, the way I jotted it down at the time.

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed December 19, 1969]

DISCOVERY DEPOSITION OF
JOSEPH CALVIN CRIM

[See p. 9 Reporter's Transcript]

* * * * *

Q Mr. Crim, would you please state your full name?

A Joseph Calvin Crim.

Q And your age? A Forty-three.

Q Where do you work? A United Fuel Gas Company.

Q How long have you worked for this company?

A Sixteen years.

Q Are you a lawyer? A Yes.

* * * * *

[See p. 16 Reporter's Transcript]

Q Mr. Crim, as an attorney, on January 29, 1966, was it your opinion that the proceedings by which Mr. Dodd allegedly acquired this mineral interest was such that you could not recommend to your employer, United Fuel Gas Company that a well be drilled on this Sarah Ann Null site without also first obtaining a lease of the interest from Cecle G. Pearson? A Let me qualify my answer. My job is to get as good a title for operations as we can; and it is very difficult for me to say that a title is marketable when there is a known claim being asserted against it.

The only objection I could find in the title was the fact that there was a person actively asserting a claim that the Dodd title was not the better title.

Q You made this call to protect United Fuel Gas Company? A I made this call to protect United Fuel Gas Company from the inconvenience of claims being asserted and from a possible litigation.

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed July 9, 1971]

ORDER

This day came the defendant, United Fuel Gas Company, a corporation, by Wm. Roy Rice, its attorney, Columbia Gas Transmission Corporation, a Delaware corporation, by Wm. Roy Rice, its attorney, the defendants W. P. Dodd and Ernestine Dodd, his wife, by William E. Hamb, their attorney, and Cecle G. Pearson, plaintiff, by Rex Burford, her attorney, upon the Motion to Substitute Columbia Gas Transmission Corporation, A Delaware corporation, as a party defendant, in the place and stead herein of United Fuel Gas Company, a defendant; and the Court after having examined said Motion, and there being no objection thereto, is of the opinion to grant the same.

It is therefore ADJUDGED and ORDERED that Columbia Gas Transmission Corporation, A Delaware corporation, be and it is hereby substituted as a party defendant herein in the place and stead of United Fuel Gas Company, a West Virginia corporation.

Dated this 9th day of July, 1971.

ORDER

ENTER

/s/ Frank L. Taylor
FRANK L. TAYLOR
Judge

[Attorney's signatures omitted]

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed July 9, 1971]

ORDER

It appears to the Court that there are several issues in this action. The central issue is whether or not the plaintiff, Cecle G. Pearson, owns all or any part of the oil and gas interest asserted in the complaint filed herein, and whether or not the tax deed described in the complaint filed in this action and the other instruments based thereon, be set aside as a cloud upon the title of the plaintiff in and to the said oil and gas interest.

Upon agreement of all parties, by their respective counsel, the Court expressly determines that there is no just reason for delay in determining this issue, defenses thereto or counter-claims, *but* expressly postpones the matter of an accounting related thereto until this judgment is made.

Upon agreement of all parties, by their respective counsel, the plaintiff will file her brief by August 16, 1971, the defendants will file their briefs by October 15, 1971, and the plaintiff will file a reply brief by October 30, 1971.

Thereupon, this issue is submitted, upon the stipulations heretofore filed herein, upon Interrogatories, Answers thereto and the Depositions of Myron Maurice Miller, Joseph Calvin Crim, Cecle G. Pearson and Henry Clinton Pearson, which Interrogatories, Answers and Depositions are hereby

ordered filed and upon the other pertinent portions of the record, all of which is adjudged, ordered and decreed.

Date: July 9, 1971.

Order

Enter

/s/ Frank L. Taylor, Judge

FRANK L. TAYLOR, JUDGE

[Attorney's Signatures Omitted]

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed July 9, 1971]

STIPULATION

* * * * *

D. From February 20, 1937, to the date of these stipulations, the said Cecle G. Pearson has been and is a married woman who is *sui juris*. H. C. Pearson, Jr. died January 4, 1958, in Kanawha County, West Virginia, a resident of said county and State. Cecle G. Pearson married H. C. Pearson, Sr., May 4, 1910, and they have both resided on Strawberry Road, near the town of St. Albans, Kanawha County, West Virginia, at least from the year 1937 to the filing of this action.

E. In a record book in the Office of the Clerk of the County Court of Kanawha County, West Virginia, entitled "Land Book" for the years 1938 through 1968, inclusive, is a list of entries made by the Assessor of Kanawha County, West Virginia, pertaining to said property. Certified copies by the County Clerk of Kanawha County, West Virginia, are stipulated to be true copies thereof, and are hereto attached as Plaintiff's Exhibit No. "4". (Consisting of 31 pages with the 1st page marked as Exhibit No. "4"). Except as expressly noted, in each year the pertinent entry is that one in the name "PEARSON H C JR". The exceptions are: in 1938 wherein the pertinent entry is that one in the name "O DELL W H & H C PEARSON JR"; and, in 1967 and 1968 wherein the pertinent entry is "DODD W P 68A 1/4 O & G Int WATERS MARTINS BRANCH".

F. In a record book in the Office of the Clerk of the County Court of Kanawha County, West Virginia, entitled "Delinquent Book 1961" is a list of real estate in the County of Kanawha delinquent for the non payment of taxes. A true copy of page 18 of 25 pages from this book containing an entry pertaining to said property contested in this action is hereto attached as Plaintiff's Exhibit No. "5". The pertinent entry is that one in the name "PEARSON H C JR".

G. In a record book in the Office of the Clerk of the County Court of Kanawha County, West Virginia, entitled "Land Sales Union 1950 THRU 1961" is the list of sales, suspensions, and redemptions of delinquent land sales made by the Sheriff of Kanawha County, West Virginia, between 1950 and 1961. A true copy of a page from this book containing a entry pertaining to said property contested in this action is hereto attached as Plaintiffs Exhibit No. "6". The pertinent entry is that one in the name "PEARSON H C JR".

H. In a record book in the Office of the Clerk of the County Court of Kanawha County, West Virginia, entitled "Land Sales Union 1962 THRU 1972" is the list of sales, suspensions, and redemptions of delinquent land sales made by the Sheriff of Kanawha County, West Virginia, between 1962 and 1965. A true copy of a page from this book in the year 1962 for 1961 containing an entry pertaining to said property contested in this action is hereto attached as Plaintiff's Exhibit No. "7". The pertinent entry is the one in the name "PEARSON H C JR".

I. In a record book in the Office of the Clerk of the County Court of Kanawha County, West Virginia, entitled "List of Real Estate Purchased for State . . . For year 1961" is a list of real estate purchased for the State of West Virginia by the Sheriff, an affidavit of the Sheriff dated December 19, 1962, as to the list of real estate purchased for the State of West Virginia, a certification by the County Clerk of the County Court of Kanawha County, West Virginia,

reciting receipt by the said Clerk of the foregoing list from the said Sheriff, on December 19, 1962, and a certification by the said Clerk of the binding of the foregoing list in a permanent book in his office and the transmittal by him of a copy thereof to the auditor of the State of West Virginia, all on December 19, 1962. A true copy of the said affidavit and certification is hereto attached as Plaintiff's Exhibit No. "8".

J. In a record book in the Office of the Clerk of the County Court of Kanawha County, West Virginia, kept for the filing of the reports of the State Commissioner of Forfeited and Delinquent Lands is a document with a Certification No. 9504 in the year 1964 for the year 1961. A true copy thereof by the County Clerk of Kanawha County, West Virginia, is stipulated to be a true copy thereof, and is hereto attached as Plaintiff's Exhibit No. "9".

K. On January 31, 1966, there was filed in the Circuit Court of Kanawha County, West Virginia, Civil Action No. 6152, under the style of State of West Virginia, by William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, Plaintiff vs. L. (Lemuel) Whittington . . . H. C. Pearson, Jr., et als., Defendants. The parties hereto further stipulate, subject to the conditions hereinbefore contained, as follows:

(a) A true copy of the complaint filed in the said action insofar as it is material to this action is hereby attached as Plaintiff's Exhibit No. "10". (Consisting of 13 pages).

(b) Under date of January 31, 1966, the said Circuit Court entered an Order of Publication in the said Civil Action No. 6152. A true copy of the said Order of Publication is hereto attached as Plaintiff's Exhibit No. "11". (Consisting of 5 pages).

(c) On February 23, 1966, there was filed in the aforesaid action by the Charleston Daily Mail an Affidavit of Publication. A true story of the said Affidavit

of Publication is hereto attached as Plaintiff's Exhibit No. "12". (Consisting of 3 pages).

(d) On February 23, 1966, there was filed in the aforesaid action by the Charleston Gazette an Affidavit of Publication. A true copy of the said Affidavit of Publication is hereto attached as Plaintiff's Exhibit No. "13". (Consisting of 3 pages).

(e) On April 11, 1966, the said Circuit Court of Kanawha County entered an Order filing the formal answer of Charles M. Love, III, guardian ad litem, previously appointed in the said action. The aforesaid order also adjudged and ordered the sale for the benefit of the school fund of several parcels including Item No. 12 Certification Number 9504. A true copy of the said order is hereto attached as Exhibit No. "14". (Consisting of 6 pages).

(f) On April 26, 1966, there was filed in the said action an Affidavit of Publication by the Charleston Daily Mail, showing the publication of a "Notice of Sale of Forfeited and Delinquent Lands." A true copy of the said Affidavit of Publication is hereto attached as Plaintiff's Exhibit No. "15".

(g) On April 26, 1966, there was filed in the said action an Affidavit of Publication by the Charleston Gazette, showing the publication of a "Notice of Sale of Forfeited and Delinquent Lands." A true copy of the said Affidavit of Publication is hereto attached as Plaintiff's Exhibit No. "16". (Consisting of 2 pages).

(h) On May 26, 1966, there was filed in the said proceeding "The Report of Sale of William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia." A true copy of the said Report is hereto attached as Plaintiff's Exhibit No. "17". (Consisting of 6 pages).

(i) On May 27, 1966, there was entered in the said action an order of the said Circuit Court in which the sale of the said parcel of land was approved, ratified, and confirmed: it was further ordered that the said Deputy Commissioner, William B. Maxwell, do make, execute, acknowledge, record and deliver . . . an apt and proper deed to the purchaser of the said land. A true copy of the said order is hereto attached as Plaintiff's Exhibit No. "18". (Consisting of 5 pages).

* * * * *

[Approval and Date Omitted]

PLAINTIFF'S EXHIBIT No. 1
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT
KANAWHA COUNTY, WEST VIRGINIA

SARAH A. PUGH NULL & HUS

#297 RL

TO

W. H. O'DELL

TIME 4:29

THIS DEED, made this 21st day of January, 1937, between SARAH A. PUGH NULL, formerly Sarah A. Pugh, and MARVIN NULL, her husband, parties of the first part; and W. H. O'DELL, party of the second part; WITNESSETH:

That for and in consideration of the sum of Ten (\$10.00) dollars, cash in hand paid and other good and valuable consideration, the receipt of all which being hereby acknowledged the said parties of the first part DO GRANT unto the said party of the second part, one-half (1/2) of all the oil and gas and gasoline, and all oil and gas substances, in and underlying all that certain tract or parcel of land, situate, lying and being near the source of the waters of Martin's Branch, in Union District, Kanawha County, West Virginia, more particularly described as follows, to-wit:

BEGINNING in an old road at a small sycamore and corner to the lands of James D. Kelly, and running North 86° 30' E. 74 feet to a stone in said creek; thence S. 41° 30' E. 107 feet to a stone at the upper side of the road; N. 50° E. 112 feet to a stone in a drain; S. 62° 30' E. 360 feet to a poplar in a hollow, corner to the lands of Ezell in the original line; thence with old line N. 24° E. 1270 feet to a white oak snag on top of the ridge corner to James Craff's land and Ed Lane; thence with the Craff line N. 32° 30' W. 610 feet to a black oak in said Craff line corner to a tract surveyed for William S. Pugh; thence with a new made line dividing land of Sarah Sarah A. Pugh and William S. Pugh N. 73° 45' W. 521 feet to a

dead top chestnut on hillside; thence N. 76° 45' W. 662 feet to a hickory near top of point; S. 75° 15' W. 1105 feet to a bunch of hickories on top of the ridge in the original line about 12 feet from the gas line; thence along the ridge S. 31° 30' E. 517 feet to a poplar and oak now gone and corner to lands of James Kelley; S. 21° 30' W. 21 feet to a stake in an old road, and following said road S. 13° E. 255 feet to a white oak at the edge of said road; thence S. 55° 30' E. 185 feet to a stake in the road; S. 78° E. 180 feet to a stake in the road; S. 59° 30' E. 505 feet to a stake in said road; S. 42° E. 378 feet to the place of beginning, containing sixty-eight (68) acres, more or less; and is the same tract of land that was conveyed to said Sarah A. Pugh Null, then Sarah A. Pugh, by W. D. Kelley, by deed bearing date the 3rd day of March, 1928, of record in the Office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book No. 325 at page 90, to which said deed reference is here made for a more particular description thereof.

Together with all surface and surface rights, rights of way, rights and privileges, necessary or convenient for prospecting, operating and drilling for, extracting, mining, removing, storing, transporting and marketing said oil and gas and gasoline and oil and gas substances, and each of them.

This conveyance is subject to a lease upon the oil and gas and gasoline and oil and gas substances in and underlying the tract of land aforesaid; and also for the consideration aforesaid the said parties of the first part do hereby transfer, set-over, assign, grant and convey unto the said party of the second part one-half (1/2) of all the rents and royalties, and all other benefits, arising and accruing, and hereafter to arise and accrue under such lease, together with the right to collect the same.

And the said parties of the first part do hereby covenant with the said party of the second part that they will warrant

generally the property hereby conveyed, and that the same is free of all liens and incumbrances, except the lease aforesaid.

WITNESS the following signatures.

Sarah A. Pugh Null

(STAMPED \$.50)

Marvin Null

State of West Virginia,

County of Kanawha, to-wit:

I, C. W. Good, a Notary Public of the said County of Kanawha, do certify, that Sarah A. Pugh Null and Marvin Null, her husband, whose names are signed to the writing above, bearing date the 21st day of January, 1937, have this day acknowledged the same before me in my said County.

Given under my hand this 21st day of January, 1937.

My commission expires September 7, 1944.

C. W. Good

Notary Public

West Virginia Kanawha County Court Clerk's Office Jan 21 1937

This Deed was this day presented to me in my office, and thereupon, together with the Certificate thereto annexed, is admitted to record.

Teste:

PAUL E. WEHRLE Clerk,

Paul E. Wehrle Clerk,

Kanawha County Court

PLAINTIFF'S EXHIBIT No. 2
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

W. H. O'DELL and wife #1311 CC 3:20

TO-

H. C. PEARSON, JR.

THIS DEED, Made this 8th day of February, 1937, between W. H. O'DELL and MINERVA E. O'DELL, his wife, parties of the first part, and H. C. PEARSON, Jr., party of the second part;

W I T N E S S E T H :

That for and in consideration of the sum of Ten (\$10.00) Dollars cash in hand paid, and other good and valuable considerations, the receipt of all which is hereby acknowledged, the said parties of the first part DO GRANT, BARGAIN, SELL and CONVEY unto the said party of the second part one-fourth (1/4) of all the oil and gas and gasoline, and oil and gas substances in and underlying all that certain tract or parcel of land situate, lying and being near the source of the waters of Martin's Branch, in Union District, Kanawha County, West Virginia, more particularly described as follows, to-wit:

BEGINNING in an old road at a small sycamore and corner to the lands of James D. Kelley, and running north 86° 30' E. 74 feet to a stone in said creek; thence S. 41° 30' E. 107 feet to a stone at the upper side of the road; N. 50° E. 112 feet to a stone in a drain; S. 62° 30' E. 360 feet to a poplar in a hollow, corner to the lands of Ezell in the original line; thence with old line N. 24 E. 1270 feet to a white oak snag on top of the ridge corner to James Craff's land and Ed Lane; thence with the Craff line N. 32° 30' W. 610 feet to a black oak in said Craff's line corner to a tract

surveyed for William S. Pugh; thence with a new made line dividing land of Sarah A. Pugh and William S. Pugh, N. 73° 45' W. 521 feet to a dead top chestnut on hillside; thence N. 76° 45' W. 662 feet to a hickory near top of point S. 75° 15' W. 1105 feet to a bunch of hickories on top of a ridge in the original line about 12 feet from the gas line; thence along the ridge S. 31° 30' E. 517 feet to a poplar and oak now gone and corner to lands of James Kelley S. 21° 30' W. 21 feet to a stake in an old road and following said road S. 13° E. 255 feet to a white oak at the edge of said road; thence S. 55° 30' E. 185 feet to a stake in the road S. 78° E. 180 feet to a stake in the road S. 59° 30' E. 505 feet to a stake in said road S. 42° E. 378 feet to the place of Beginning, and containing Sixty-eight (68) acres, more or less;

and being a part of the same property that was conveyed to the said W. H. O'Dell by Sarah A. Null and husband by deed bearing date January 21, 1937, which said deed was duly recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, on January 21, 1937, to which reference is here made.

For the consideration aforesaid, the said parties of the first part grant such surface and surface rights, rights of way rights and privileges necessary or convenient for prospecting, operating, drilling, extracting, mining, removing, storing, transporting and marketing said oil and gas, and gasoline and oil and gas substances.

This conveyance is subject to a lease upon the oil and gas and gasoline in and underlying the tract aforesaid, and also for the consideration aforesaid, the said parties of the first part do hereby transfer, set over and assign, grant and convey unto the said party of the second part one-fourth (1/4) of all the rents and royalties and all other benefits arising and accruing, and hereafter to arise and accrue under such lease, together with the right to collect the same.

And the said parties of the first part do hereby Covenant with the said party of the second part that they will WARRANT SPECIALLY the title to the property hereby conveyed, with the exception of the 1937 taxes, which the said party of the second part is to pay

WITNESS the following signatures and seals.

W. H. O'Dell (SEAL)
Minerva E. O'Dell (SEAL)

(STAMPED .50c)

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to-wit:

I, Laura J. Coyle, a Notary Public of the said County of Kanawha and State aforesaid, do hereby certify that W. H. O'Dell and Minerva E. O'Dell, his wife, whose names are signed to the above bearing date the 8th day of February, 1937, have this day acknowledged the same before me in my said County.

GIVEN under my hand this 8th day of February, 1937.
My commission expires on the 3rd day of October, 1944.

Laura J. Coyle
Notary Public

West Virginia Kanawha County Court Clerk's Office. MAR
19 1937

This Deed was this day presented to me in my office, and thereupon, together with the certificate thereto annexed, is admitted to record.

Teste:
PAUL E. WEHRLE Clerk
Paul E. Wehrle Clerk
Kanawha County Court.

PLAINTIFF'S EXHIBIT No. 3
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

W. C. PEARSON, JR.
TO
GEO. C. PEARSON

94218 PT 11:10 a.m.

THIS DEED, made this 20th day of February, 1937, by and between W. C. Pearson, Jr., single, party of the first part, and Geo. C. Pearson, party of the second part.

WITNESSETH: That for and in consideration of Ten Dollars (\$10.00) and other valuable considerations paid by the party of the second part to the party of the first part, receipt whereof is hereby acknowledged, the party of the first part hereby grants, conveys, assigns and sells unto the party of the second part, with covenants of special warranty, the

interests of the party of the first part in lands in Kanawha County, West Virginia, acquired under the following conveyances:

First, deed bearing date the 20th day of February, 1937, from H. C. Pearson and Cecile C. Pearson, his wife, to the party of the first part, recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 428, page 499. By said deed the said party of the first part acquired an undivided one-fourth (1/4) interest in all the oil and gas under two tracts of land in Pose District, one containing 41.34 acres, more or less, known as the D. F. Legg tract, and the other containing 31.3 acres, more or less, known as the W. M. Dixon tract, both situate on Broadtree Run of Grapevine Creek; subject to the lease thereon for oil and gas, and the consolidation agreement with S. A. Griffith; being the same property conveyed unto H. C. Pearson by William O. Zischold and wife, by deed dated May 21, 1926, of record in the office aforesaid in Deed Book 414, page 314, being tracts Nos. 2 and 3 described in said last named deed.

Second, by deed bearing date the 8th day of February, 1937, from W. H. O'Dell and Minerva E. O'Dell, his wife, to H. C. Pearson, Jr., recorded in the office aforesaid in Deed Book 428, page 33. By said deed the said party of the first part acquired one-fourth (1/4) of all the oil and gas and gasoline, and oil and gas substances, in and underlying that certain tract of land in Union District, Kanawha County, West Virginia, containing 68 acres, more or less, being the same property conveyed to said W. H. O'Dell by Sarah A. Hall and husband, by deed bearing date the 1st day of January, 1937, recorded in the office aforesaid, together with all rights and privileges therein and thereby conveyed.

Reference is made to the deeds herein referred to for more particular description of the rights and property herein and hereby conveyed and the reservations, if any, subject to which said conveyances are made.

WITNESS the following signature and seal:

(STAMPED \$1.00)

H. C. Pearson Jr. (SEAL)

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO-WIT:

I, Roy Deubenspeak, a notary public of said county, do certify that H. C. Pearson, Jr., single, whose name is signed to the foregoing writing, bearing date the 20th day of February, 1937, has this day acknowledged the same before me in my said county.

Given under my hand this 8th day of Aug. 1937.

NOT ARIAL SEAL

Roy Deubenspeak
Notary Public

My commission expires Sept. 14, 1944.

West Virginia Kanawha County Court Clerk's Office AUG 9 1937

This Deed was this day presented to me in my office, and thereupon, together with the Certificate thereto annexed, is admitted to record.

Test:
Paul E. Zischold Clerk
Kanawha County Court

Plaintiff's Exhibit No. 3

Page 159

BEST COPY AVAILABLE

PLAINTIFF'S EXHIBIT No. 10
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA, by William
B. Maxwell, Deputy Commissioner of
Forfeited and Delinquent Lands for
Kanawha County, West Virginia,

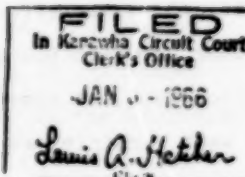
Plaintiff

vs.

Civil Action No. 6152

L. (LEMUEL) A. WHITTINGTON, HERBERT
S. YOUNG, J. G. ANDERSON, SALLIE S.
ANDERSON, JAMES (S.) BAILEY, ERNEST
E. ADKINS, RUTH L. ADKINS, M. V.
BOWER, PAUL L. GIER, NEDA G. FIER,
K. (KEITH) L. BRICK, WANDA (N.) BRICK,
BROTHERTON ENTERPRISES, INC., a corpora-
tion, ALFRED BROWN, NELLIE BROWN,
C. C. CADLE, PATRA CADLE, H. C. PEARSON,
JR., W. H. PEDEN, MARY W. WEST, and all
unknown parties and claimants who have
or claim an interest in the lands in-
cluded and proceeded against in this
action,

Defendants



COMPLAINT

TO THE HONORABLE FRANK L. TAYLOR, JUDGE OF SAID COURT:

The plaintiff, State of West Virginia, complains and

says:

1. William B. Maxwell, an attorney, duly licensed to practice law in the State of West Virginia, and residing and practicing in Kanawha County of said State, is the duly appointed, qualified and acting Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, having been appointed by the Auditor of the State of West Virginia and entered into and executed bond as provided by law and required by the Auditor and as such, is duly authorized and empowered to institute this action in the name of the State of West Virginia.

2. The Auditor, as State Commissioner of Forfeited and Delinquent Lands, has prepared and has certified to this Honorable Court, under date of June 30, 1965, in the form and manner and within the time prescribed by law, to be proceeded against as provided by law, a list of all lands situate in Kanawha County, West Virginia, which, on the date of the certification thereof were known to be forfeited to the State of West Virginia for non-entry on the land books of said County or were sold to said State for the delinquent taxes due thereon, and which were not redeemed, released, transferred or otherwise disposed of, and which had become irredeemable and subject to sale for the benefit of the school fund, as provided by Article 4, Chapter 11A, of the Code of West Virginia, as last amended. No waste and unappropriated or escheated lands are included in said certified list. Said list was made in quadruplicate, contains all of the information required by law, and in all respects complies with the requirements of the statutes relating thereto. The original of said list was retained by the Auditor and a copy thereof was delivered by the Auditor to, and duly received by, each of the persons required by law to have and receive the same, including the Clerk of this Court, and said Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County.

The list so certified to the Clerk of this Court, as aforesaid, is asked to be taken and considered as exhibited herewith and as a part of this complaint, as provided by law, to the same extent and with like effect as if said list were fully set out herein. For convenience, the term "Auditor" wherever used herein shall refer to the Auditor of the State of West Virginia in his capacity as State Commissioner of Forfeited and Delinquent Lands, and the term "State" shall refer to the State of West Virginia.

3. The several lots, tracts and parcels of land, and interests in land, which are proceeded against in this action, and which are hereinafter described, were certified by the Auditor to this Honorable Court by the aforesaid list, and, except as hereinafter set out in the list of lands included in this action, each lot, tract and parcel of land, and interest in land, certified as aforesaid and herein proceeded against, has become irredeemable and is subject to sale for the benefit of the school fund as provided by Article 4, Chapter 11A, of the Code of West Virginia, as last amended.

4. Each lot, tract, and parcel of land, and interest in land, herein sought to be sold for the benefit of the school fund, which was certified to this Honorable Court by the aforesaid list as having been sold to the State for delinquent taxes due thereon was duly and regularly entered upon the proper land books of Kanawha County, West Virginia, and charged with taxes in the year or years for which the same was sold, in the name of the person or persons named in said certified list under the heading, "Name in which sold or forfeited," and the taxes so charged were not paid, nor was any part thereof paid, on any of said lots, tracts, and parcels of land, or interests in land, or on any part thereof, by any person or persons; and each said lot, tract and

parcel of land, or interest in land, herein sought to be sold was returned delinquent by the Sheriff of said County for the nonpayment of taxes thereon, was not redeemed, and was sold by said Sheriff and purchased by the State for the delinquent taxes due thereon. The lots, tracts and parcels of land, and interests in land, which were returned delinquent and thereafter sold and purchased by the State are designated as such in said certified list by an "x" mark set out in each item of delinquent land included in said list in front of the heading, "Sold State tax year" or "Sold to State for tax year", and the year or years for which each lot and tract, or undivided interest therein, was returned delinquent for the nonpayment of taxes thereon and sold to the State is set out in each item of delinquent land included in said list, immediately following the said heading, "Sold State tax year" or "Sold to State for tax year".

5. Each lot, tract and parcel of land, and interest in land, herein sought to be sold which was certified to this Honorable Court by the aforesaid list as forfeited to the State for nonentry on the land books of said County was so forfeited pursuant to Section 6, Article XIII of the Constitution of this State, in the name of the person or persons named in said certified list under the heading, "Name in which sold or forfeited". The lots, tracts and parcels of land, and interests in land, which were so forfeited to the State are designated as such in said certified list by an "x" mark set out in each item of forfeited land included in said list in front of the heading, "Forfeited tax years" or "Forfeited to State tax years", and the first and last years of continuous nonentry for which each lot and tract, or undivided interest therein, was so forfeited to the State are set out in each item of forfeited land immediately following the said heading, "Forfeited tax years" or "Forfeited to State for tax years".

The term, "Name in which sold or forfeited", as used in said certified list, is synonymous with the term, "Former owner", and is a contraction of the phrase, "The former owner in whose name the land was forfeited, or was returned delinquent and sold".

6. The lands and interests in lands herein sought to be sold which were purchased by the State for the delinquent taxes due thereon were sold to the State at least eighteen months next prior to the date of the certification thereof, were not redeemed from said Auditor at any time within eighteen months after such sale as provided by law, and said lands and interests in lands were, on the date of the certification thereof, and are now, irredeemable, not redeemed, released or otherwise disposed of, and title thereto remains, and is vested absolutely, in the State; and the lands and interests in lands herein sought to be sold which were forfeited to the State for nonentry on the land books were not redeemed from said Auditor at any time prior to the certification thereof to this Honorable Court, as provided by law, and said lands and interests in lands were, on the date of the certification thereof, and are now, irredeemable, not redeemed, released or otherwise disposed of and title thereto remains, and is vested absolutely, in the State.

7. The taxes due on the respective lots, tracts and parcels of land, and interests in land, herein sought to be sold, have not been paid for any ten (10) consecutive years since the sale or forfeiture thereof to the State, nor has any lot, tract or parcel of land, or interest in land, or any part thereof, herein sought to be sold, been transferred and taxes paid thereon as provided by Section 3, Article XIII of the Constitution of this State.

8. Each undivided interest in land herein sought to be sold was, in the year or years for which the same was sold or for-

feited to the State, severed from the whole of the estate or estates from which the same was derived, and none of said undivided interests, or any part thereof, or interest therein, were, in the year or years for which the same were sold or forfeited to the State, entered and charged with taxes upon the land books along with the other estate or estates in the land as an entirety; nor have any of the undivided interests herein sought to be sold been entered on the land books and back taxed, or redeemed, as provided by Section 9, Article 4, Chapter 11, of the official Code of West Virginia.

9. Except as hereinafter set out in the list of lands herein proceeded against, all land included in this action is, as certified to this Honorable Court by the Auditor, subject to sale for the benefit of the school fund. The respective lots, tracts and parcels of land, and interests in land, so certified which are included in this action are shown and described in the list of lands next hereinafter set out, which list sets out as to each item included therein, as required by law, the certification number of each item; the year in which each item was certified to this Court; whether the lots, tracts and parcels of land, or interests in land, included in each item were sold to the State for delinquent taxes due thereon or were forfeited to the State for nonentry on the land books; the respective years of nonentry and forfeiture or delinquency and sale of each item; the name of the former owner or owners of the real estate included in each item, and, when possible, a reference to the former owner's source of title to said real estate; the names of all persons, if any, who, to the knowledge of said Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, have or claim an interest in the lands included in each item, together with a brief recital of the nature of such claim

if the same be known to said Deputy Commissioner; the quantity, location and general description of the real estate included in each item; the total amount due on each item; and, following the description of any lot, tract or parcel of land, or interest in land, set out in the following list, which is not subject to sale for the benefit of the school fund is a brief recital of the reason the same is not subject to sale.

The lands herein proceeded against are set out and described in the following list which consists of items numbered 1 to 25 , both inclusive, to-wit:

Item No. 23
 Certification No. 9504 District: Union
 Year Certified: 1964 Municipality: _____
 Class: Land returned delinquent and sold to the State.
 Sold to State for tax year: 1961
 Year of sale to State: 1962
 Former owner in whose name the land was returned delinquent and sold to the State: _____

H. C. Pearson, Jr.

Other known parties or claimants:	Nature of respective claims of other known parties or claimants:
_____	_____
_____	_____
_____	_____

Quantity, location and description:

68 Acres, 1/8 Acre oil and gas interest, Waters Martins Branch, Union District, Kanawha County, West Virginia, being the same property conveyed to H. C. Pearson, Jr. by W. H. O'Dell and Minerva E. O'Dell, his wife, by deed dated February 8, 1937, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 428, at page 53, reference to which deed is here made for a more particular description of said property.

Former owner's source of title:

Charges:

Amount of taxes and interest due	\$ <u>9.47</u>
Publication Sheriff's Sale	<u>6.00</u>
Auditor's Certification Fee	1.00
Circuit Clerk's Fee	1.00
Deputy Commissioner's Attorney Fee	10.00
Deputy Commissioner's Commission*	_____
Publications*	_____
Total amount due as of date of filing of Complaint exclusive of Deputy Commissioner's commission and publication costs	\$ <u>27.47</u>

10. There may be unknown parties who have or claim an interest in the several lots, tracts and parcels of land, and interests in land, herein proceeded against and hereinabove set out and described.

11. Each of the persons entitled to notice of the institution of this action has been made a party defendant hereto, including the former owner or owners in whose name the respective lots, tracts and parcels of land, and interests in land, herein proceeded against were forfeited or were returned delinquent and sold to the State, and all unknown claimants of any interest in said lands, as well as all other persons, if any, who, according to the knowledge of the Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, have or claim an interest in any of the lands, and interests in land, included in this action; and said Deputy Commissioner knows of no other person or persons who have or claim any interest in the lands and interests in land herein proceeded against other than those named as parties defendant hereto.

12. All lists, notices, returns, certificates, sales, reports, verifications and things of any nature required by law to be made or done by any officer of Kanawha County or the State of West Virginia, including the Auditor of this State as ex officio State Commissioner of Forfeited and Delinquent Lands and the Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, requisite to the vesting of irredeemable title to the lands, and interests in land, herein proceeded against in the State of West Virginia, and to render said lands subject to sale for the benefit of the school fund, as provided by Article 4, Chapter 11A, of the Code of West Virginia, as last amended, were made or done in the manner, and at the times, and in all respects, as required by law.

13. The several deeds and other instruments of title hereinbefore referred to in the several descriptions of the lands, and interests in land, herein proceeds against are of record in the office of the Clerk of the County Court of said Kanawha County, and each of the same is asked to be taken and considered as a part hereof and as exhibited herewith.

Wherefore the plaintiff prays:

(1) That all parties named as defendants in the caption of this complaint be made parties defendant to this action.

(2) That all unknown parties and claimants who are or may be interested in any of the lands, and interests in land, herein proceeded against, or any part thereof, or interest therein, may be made parties defendant to this action; and that all right, title and interest of all unknown parties and claimants who fail to appear and defend their rights shall be forever foreclosed and held for naught.

(3) That an order of publication may be awarded and completed as to all named defendants and all unknown parties and claimants who are or may be interested in any of the lands, and interests in land, proceeded against herein.

(4) That a discreet and competent attorney at law practicing at the bar of this Court be appointed guardian ad litem for any and all infant defendants proceeded against herein whether known or unknown.

(5) That the Court may, upon proper application being made, permit the redemption of all or part of any lot, tract or parcel of land herein proceeded against, or any interest therein upon payment to the Sheriff of the total amount of taxes, interest, charges and costs properly due or chargeable thereon, as provided by Section 18, Article 4, Chapter 11A of the Code of West Virginia, as last amended.

(6) That the Court may, upon proper application being made, and whenever the facts constitute proper grounds therefor, permit the dismissal of this action as to any lot, tract or parcel of land, or interest in land, herein proceeded against, pursuant to the provisions of Section 13, Article 4, Chapter 11A of the Code of West Virginia, as last amended.

(7) That it be found and adjudged by the Court that each lot, tract and parcel of land, and interest in land, herein proceeded against, except those which may be previously redeemed or dismissed from this action, is irredeemable; that title thereto remains, and is vested absolutely, in the State of West Virginia; and that each said lot, tract and parcel of land, and interest in land, is subject to sale for the benefit of the school fund.

(8) That an order be entered herein authorizing and directing that each lot, tract and parcel of land, and interest in land, herein proceeded against, except those which may be redeemed or dismissed from this action, be sold for the benefit of the school fund, as required by the Constitution of this State.

(9) That an order of reference may be made to a Commissioner of this Court as to any of the lands, or interests in land, proceeded against in this action whenever the Court is of the opinion that an order of reference is necessary and proper.

(10) That the proceeds received from the redemption and sale of the lands, or interests in land, herein proceeded against be disbursed as provided by law, and that the rights of the respective defendants in and to any excess proceeds remaining of the purchase money received from the sale of any of the lands, or interests in land, proceeded against in this action may be adjudicated and determined upon proper application being made therefor.

(11) That the plaintiff may have such other, further and general relief as the nature of this cause may require and as to the Court shall seem proper.

STATE OF WEST VIRGINIA

By William B. Moffatt
Deputy Commissioner of Forfeited
and Delinquent Lands for Kanawha
County, West Virginia

1001 Kanawha Banking and Trust Building
Charleston, West Virginia

PLAINTIFF'S EXHIBIT No. 11
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

ORDER OF PUBLICATION

STATE OF WEST VIRGINIA, by William
B. Maxwell, Deputy Commissioner of
Forfeited and Delinquent Lands for
Kanawha County, West Virginia,

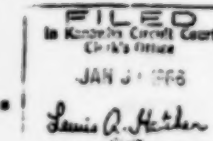
Plaintiff

vs.

Civil Action No. 6152

L. (LEWEL) A. WHITTINGTON, HERBERT
S. YOUNG, J. G. ANDERSON, SALLIE S.
ANDERSON, JAMES (S.) BAILEY, ERNEST
E. ADKINS, RUTH L. ADKINS, M. V.
BOWEN, PAUL L. FISER, WEDA G. FISER,
K. (KEITH) L. BRICK, WANDA (W.) BRICK,
BROTHERTON ENTERPRISES, INC., a corpora-
tion, ALFRED BROWN, MELLIE BROWN,
C. C. CADLE, PATRA CADLE, H. C. PEARSON,
JR., W. E. PEDEN, MARY W. WEST, and all
unknown parties and claimants who have
or claim an interest in the lands in-
cluded and proceeded against in this
action,

Defendants



The object of the abovesentitled action is to obtain a judgment of the Circuit Court of Kanawha County ordering the sale, for the benefit of the school fund, of all lands included in the action, and for general relief. The following is a list of all, such lands, setting forth as to each item its local description, the former owner or owners in whose name or names the land was forfeited, or was returned delinquent and sold to the State, and the names of such other defendants as may be interested in said lands:

Certification Number	Name of Former Owner in whose name the land was forfeited or was returned delinquent and sold, as the case may be	Names of such other defendants as may be interested	Local Description
9772	L. (Lemuel) A. Whittington	Herbert S. Young	50 Acres, 3/4 Acres, more or less, coal interest, Coopers Creek, Poca District
9773	L. (Lemuel) A. Whittington		1/2 coal interest. 43-3/4 Acres Tupper's Creek, Poca District
9774	L. A. Whittington		1/2 mineral interest, 6 acres, Right Hand Fork of Poca, Poca District
9775	L. A. Whittington		1/2 mineral interest 116-1/2 Acres Camp Creek, Poca District
9776	L. A. Whittington		20 acres mineral interest Grapevine Creek, Poca District
9777	L. A. Whittington		1/4 mineral interest, 52-1/10 Acres Allen Fork, Poca District
9778	L. A. Whittington		1/8 mineral interest 85 Acres Right Hand Fork Poca, Poca District
9779	J. G. Anderson	Sallie S. Anderson	53 Acres, 1/2 mineral interest Kanawha Two Mile Creek, Union District
9780	James (S.) Bailey	Ernest E. Adkins Ruth L. Adkins	2 Acres surface Kanawha Two Mile Creek, Lot 1, Union District
9781	M. V. Bower	Paul L. Fizer Neda G. Fizer	Surface Lot 1 Bower Addition, Tupper's Creek Union District
9782	K. (Keith) L. Brick Wanda (N.) Brick		Part Lot 16 Crosslanes Estate, Union District
9783	K. L. Brick Wanda Brick		Property described as Lot 17, Part Lot 16, Tract 2 Crosslanes, but being actually only Lot 17, Union District
9784	Brotherton Enterprises, Inc.		Lots 139-140 DuPont Place, Union District
9785	Brotherton Enterprises, Inc.		1/8 mineral interest, 125 acres 2 Mile Creek, Union District
9786	Brotherton Enterprises, Inc.		Lot 51 Walker Addition Institute, Union District

Certification Number	Name of Former Owner in whose name the land was forfeited or was returned delinquent and sold, as the case may be	Names of such other defendants as may be interested	Local Description
9787	Brotherton Enterprises, Inc.		Lot 151 Washington Place, Union District
9788	Brotherton Enterprises, Inc.		Lot 50 Walker Addition, Institute, Union District
9789	Brotherton Enterprises, Inc.		Lot 135 Nitro Park, Union District
9790	Brotherton Enterprises, Inc.		Lot 69 Nitro Park, Union District
9791	Brotherton Enterprises, Inc.		Lot 4 Fairview Addition, Union District
9792	Alfred Brown Nellie Brown		Lot 14, Block 3 Gore Addition, Union District
9793	C. C. Cadle Patra Cadle		4/5 Acre, more or less, Rocky Fork Rust Farm, Union District
9504	H. C. Pearson, Jr.		68 acres, 1/8 oil and gas interest, Waters Martins Branch, Union District
9505	W. H. Paden		2 Acres Coal. Martins Branch, Union District
9514	Mary W. West		Part Lots 100-101 Nitro Park Addition, Union District

All and each of the above named defendants, to-wit:
 L. (Lemuel) A. Whittington, Herbert S. Young, J. G. Anderson,
 Sallie S. Anderson, James (S.) Bailey, Ernest E. Adkins, Ruth L.
 Adkins, M. V. Bower, Paul L. Fizer, Neda G. Fizer, K. (Keith) L.
 Brick, Wanda (N.) Brick, Brotherton Enterprises, Inc., a corpora-
 tion, Alfred Brown, Nellie Brown, C. C. Cadle, Patra Cadle, H. C.
 Pearson, Jr., W. H. Peden, Mary W. West, and all unknown parties
 and claimants who have or claim an interest in the lands included
 and proceeded against in this action, are required to appear and
 serve upon William B. Maxwell, plaintiff's attorney, whose address
 is 1001 Kanawha Banking and Trust Building, Charleston, West Virg-
 inia, an answer or other defense to the complaint filed in this
 action on or before March 8, 1966, otherwise judgment by default
 will be taken against them at any time thereafter. A copy of said
 complaint can be obtained from the undersigned Clerk at his office
 located in Charleston in said County and State, and from said
 William B. Maxwell, plaintiff's attorney, at his office, as afore-
 said.

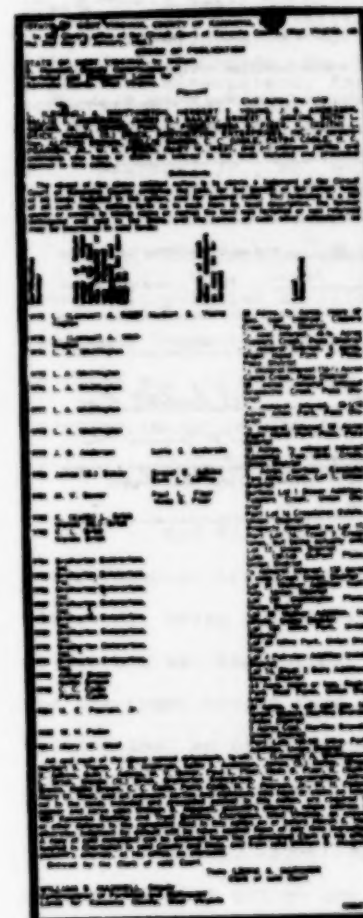
Entered by the Clerk of said Court.

Teste

Louis A. Hester
 Clerk of said Court

WILLIAM B. MAXWELL, Deputy
 Commissioner of Forfeited and
 Delinquent Lands for Kanawha
 County, West Virginia

PLAINTIFF'S EXHIBIT No. 12
 STIPULATION OF PARTIES FILED JULY 9, 1971,
 CIRCUIT COURT,
 KANAWHA COUNTY, WEST VIRGINIA



ASSIGNED FOR PUBLICATION

STATE OF WEST VIRGINIA

Kanawha County

Stipulation No. 1252

☐ Sunday Gazette-Mail ☐ Charleston Gazette, a daily Democratic newspaper ☒ Daily Mail, a daily Republican newspaper, published in the City of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of *Stipulation No. 1252*

was duly published in said paper once a week for three successive weeks commencing with the issue of the 5 day of January, 1966, and ending with the issue of the 29 day of February, 1966, and was posted at the front door of the Court House of said Kanawha County, West Virginia, on the 7 day of February, 1966.

Dates Published:

January 5, 12, 19, 1966

Charlottesville

Subscribed and sworn to before me this 10 day of July, 1966

Thomas A. Hester
 Notary Public of Kanawha County, West Virginia

My Commission expires Jan 31, 1967

Printer's Fee \$ 12.00

STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

Affidavit of Publication
 In and for the County of Kanawha, West Virginia
 Chas. E. ...
 No. _____
 STATE OF WEST VIRGINIA,) 20 1966
)
 I, Charlotte Cox, Clerk of the Court, do hereby certify that the following is a true and correct copy of the original as the same appears on the records of the Court:
 No. 6152
 of the
☐ Sunday Gazette-Mail ☒ Charleston Gazette, a daily Democratic newspaper ☐ Daily Mail, a daily Republican newspaper, published in the City of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of Civil Action # 4152

 was duly published in said paper once a week for three successive weeks commencing with the issue of the 5 day of February, 19 66, and ending with the issue of the 19 day of February, 19 66, and was posted at the front door of the Court House of said Kanawha County, West Virginia, on the 5 day of February, 19 66.
 Dates Published:
 February 5, 12, 19, 1966 C. Charlotte Cox
 Subscribed and sworn to before me this 19 day of Feb., 19 66

 Notary Public of Kanawha County, West Virginia
 My Commission expires May 15, 1966
 Printer's Fee \$ 1.25.00

[illegible]

**STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA**

VS.

Civil Action No. 6152

L. (LEMUEL) A. WHITTINGTON, ET AL
(L. (Lemuel) A. Whittington, Nos.
9772 and 9773; L. A. Whittington,
Nos. 9774, 9775, 9776, 9777 and
9778; J. G. Anderson, No. 9779;
Brotherton Enterprises, Inc., a
corporation, No. 9785; Alfred Brown
and Nellie Brown, No. 9792; C. C.
Cadle and Patra Cadle, No. 9793;
H. C. Pearson, Jr., No. 9504 and
W. H. Peden, No. 9505).

ENTERED
IN MA ORDER BOOK
APR 14 1966
NO. 14
PAGE 334

This action came on this day for hearing, and Charles M. Love, III, guardian ad litem, appeared in open Court and tendered and asked leave to file his joint and separate answer as guardian ad litem for all known and unknown infants, if any, who may be interested in any of the lands included in this action, and the answer of said infants by their said guardian ad litem;

And William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, attorney for plaintiff, being present in Court and joining said guardian ad litem's motion and waiving notice thereof, no other party requiring notice, and the Court having seen and inspected said answer and being of the opinion that no other party requires service thereof, or notice of the entry of this order, the same is ordered filed.

And it appearing to the Court that the lands proceeded against in this action and described in the complaint and in the Auditor's certified lists as Certification Numbers 9780, 9782, 9783, 9784, 9786, 9787, 9788, 9789, 9790 and 9791 have heretofore been redeemed by orders duly made and entered by the Court in this action; and that the land described in said complaint and said certified lists as Certification Numbers 9781 and 9514 have been dismissed from this

action for good and proper cause, by orders duly made and entered by the Court in this action; and it further appearing to the Court, and the Court being of the opinion from the complaint, the Auditor's certified lists and the evidence adduced at the bar of the Court that the remainder of the lands proceeded against in this action and described in the complaint and in said certified lists as Certification Numbers 9772, 9773, 9774, 9775, 9776, 9777, 9778, 9779, 9785, 9792, 9793, 9504 and 9505 have not been redeemed, released, transferred or otherwise disposed of and that title thereto remains and is vested absolutely in the State, and that said lands are, as certified by the Auditor to this Court, and, as alleged in the complaint, subject to sale for the benefit of the school fund, as provided by Articles 3 and 4 of Chapter 11A of the Code of West Virginia, as last amended, it is, accordingly, ADJUDGED and ORDERED as follows:

(1) That the following described tracts and parcels of land, or undivided interests therein, have not been redeemed, released, transferred or otherwise disposed of and title thereto remains and is vested absolutely in the State of West Virginia, and that each of said tracts and parcels of land, or undivided interests therein, are, as certified by the Auditor to this Court, and, as alleged in the complaint, subject to sale for the benefit of the school fund, as provided by Articles 3 and 4 of Chapter 11A of the Code of West Virginia, as last amended, to-wit:

1. Certification Number 9772, described as follows:

50 Acres, 3/4 acres, more or less, coal interest, Coopers Creek, Pocahontas District, Kanawha County, West Virginia, being the same coal interest conveyed to Lemuel W. Whittington and Herbert S. Young, by Murley F. Unrue and Walter W. Unrue, her husband, by deed dated May 10, 1948, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 832, at page 94.

2. Certification Number 9773, described as follows:

1/2 coal interest, 43-3/4 Acres Tupper's Creek, Pocahontas District, Kanawha County, West Virginia, being the same coal interest conveyed to Lemuel A. Whittington, by William A. Carpenter and Macil B. Carpenter, his wife, by deed dated October 9, 1951, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 1028, at page 286.

3. Certification Number 9774, described as follows:

1/2 mineral interest 6 acres, right hand fork of Pocahontas, Pocahontas District, Kanawha County, West Virginia, being the same property conveyed to L. A. Whittington by J. Hornor Davis, 2nd, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, by deed dated October 1, 1958, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 1258, at page 29.

4. Certification Number 9775, described as follows:

1/2 mineral interest 116-1/2 acres, Camp Creek, Pocahontas District, Kanawha County, West Virginia, being the same property conveyed to L. A. Whittington by J. Hornor Davis, 2nd, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, by deed dated October 1, 1958, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 1258, at page 22.

5. Certification Number 9776, described as follows:

20 acres mineral interest Grapevine Creek, Pocahontas District, Kanawha County, West Virginia, being the same property conveyed to L. A. Whittington by J. Hornor Davis, 2nd, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, by deed dated October 1, 1958, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 1258, at page 23.

6. Certification Number 9777, described as follows:

1/4 mineral interest 52-1/10 acres Allen Fork, Pocahontas District, Kanawha County, West Virginia, being the same property conveyed to L. A. Whittington by J. Hornor Davis, 2nd, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, by deed dated October 1, 1958, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 1258, at page 21.

7. Certification Number 9778, described as follows:

1/8 mineral interest 85 Acres Right Hand Fork Poca, Poca District, Kanawha County, West Virginia, being the same property conveyed to L. A. Whittington by J. Horner Davis, 2nd, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, by deed dated October 1, 1958, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 1258, at page 24.

8. Certification Number 9779, described as follows:

53 Acres, 1/2 mineral interest Kanawha Two Mile Creek, Union District, Kanawha County, West Virginia, being part of the property conveyed to J. G. Anderson and Virginia I. Anderson, his wife, by Kelley Cavender and Edith Cavender, his wife, by deed dated October 12, 1932, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 382, at page 297.

9. Certification Number 9785, described as follows:

1/8 mineral interest, 125 acres 2 Mile Creek, Union District, Kanawha County, West Virginia, being the same property conveyed to Brotherton Enterprises, Inc., a corporation, by J. Horner Davis, 2nd, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, by deed dated January 24, 1951, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 944, at page 453.

10. Certification Number 9792, described as follows:

Lot 14, Block 3 Gore Addition, Union District, Kanawha County, West Virginia, being the same property conveyed to Alfred Brown and Nellie Brown, his wife, by Leroy Bryan, single, by deed dated August 14, 1951, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 971, at page 296.

11. Certification Number 9793, described as follows:

4/5 Acre, more or less, Rocky Fork Rust Farm, Union District, Kanawha County, West Virginia, being the unconveyed residue of a tract of 1.9 acres conveyed to C. C. Cadle by Beulah Rust Thomas, unmarried, by deed dated January 22, 1946, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 727, at page 174.

12. Certification Number 9504, described as follows:

68 Acres, 1/8 acre oil and gas interest, Waters Martins Branch, Union District, Kanawha County, West Virginia, being the same property conveyed to H. C. Pearson, Jr. by W. H. O'Dell and Minerva E. O'Dell, his wife, by deed dated February 8, 1937, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 428, at page 53.

13. Certification Number 9505, described as follows:

2 Acres Coal Martins Branch, Union District, Kanawha County, West Virginia, being the same property conveyed to W. H. Peden by J. Horner Davis, 2nd, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, by deed dated October 1, 1960, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 1320, at page 29.

(2) That unless sooner redeemed or dismissed from this action, each of the above described tracts and parcels of land or undivided interests therein, shall be sold by William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, at public auction, at the Virginia Street, (North-Front) door of the Court House of Kanawha County, West Virginia, to the highest bidder for cash in hand at time of sale, to be paid to the Sheriff of Kanawha County, West Virginia, or to one of his deputies attending the sale, and that said sale shall begin at ten (10) o'clock a.m. on Tuesday, April 26th, 1966, and if not completed on that day, shall be continued from day to day, Sundays and holidays excepted, until all of said tracts and parcels of land, or undivided interests therein, shall have been offered for sale or shall have been redeemed or dismissed from this action; and public outcry of any continuance of such sale shall be sufficient notice thereof, and no further notice by publication or otherwise shall be required.

Before making such sale, the said Deputy Commissioner shall, beginning at least fifteen (15) days prior to the day of sale as

fixed by the Court herein, advertise the time, terms and place of sale by causing to be published, once a week for two successive weeks, a notice of said sale containing a list of all of the lands herein ordered to be sold, in The Charleston Daily Mail and in The Charleston Gazette, two newspapers of opposite politics published in Kanawha County, as provided by Section 23, Article 4, Chapter 11A of the Code of West Virginia, as last amended.

And what the said Deputy Commissioner shall do hereunder he shall report to this Court within thirty (30) days after the completion of said sale as herein provided, by filing such report with the Clerk of this Court.

Dated this 11th day of April, 1966.

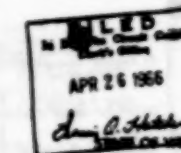
Enter:

Frank L. Taylor
Judge

Copied

Charles M. Lewis

PLAINTIFF'S EXHIBIT No. 15
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA



Affidavit of Publication

No. _____

Kanawha County, West Virginia

Charlotte Cox Comptroller No. 60482

Case No.	Plaintiff	Defendant	Amount	Interest	Costs	Total
1	J. A. Hester	J. A. Hester	100.00	10.00	5.00	115.00
2	J. A. Hester	J. A. Hester	100.00	10.00	5.00	115.00
3	J. A. Hester	J. A. Hester	100.00	10.00	5.00	115.00
4	J. A. Hester	J. A. Hester	100.00	10.00	5.00	115.00
5	J. A. Hester	J. A. Hester	100.00	10.00	5.00	115.00
6	J. A. Hester	J. A. Hester	100.00	10.00	5.00	115.00
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100	J. A. Hester	J. A. Hester	100.00	10.00	5.00	115.00

☐ Sunday Gazette-Mail ☐ Charleston Gazette, a daily Democratic newspaper ☒ Daily Mail, a daily Republican newspaper, published in the City of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of Delinquent Lands... Whittier...

was duly published in said paper once a week for two successive weeks commencing with the issue of the 15 day of April, 1966, and ending with the issue of the 23 day of April, 1966, and was posted at the front door of the Court House of said Kanawha County, West Virginia, on the 15 day of April, 1966.

Dated Published: April 20, 21, 1966 A. Hester

Subscribed and sworn to before me this 21 day of April, 1966
Shirley A. Hester
Notary Public of Kanawha County, West Virginia

My Commission expires May 11, 1966

Printer's Fee \$ 10.00

BEST COPY AVAILABLE

[illegible]

FILED
In Kanawha County
Court's Office

Subpoena of Publication

No. _____

APR 26 1966
STATE OF WEST VIRGINIA,

Am. A. H. H. Kanawha County, to-wit:
I, *Charles H. H. H.* *Publication No. 6152*
of the

☐ Sunday Gazette-Mail ☒ Charleston Gazette, a daily Democratic newspaper ☐ Daily Mail, a daily Republican newspaper, published in the City of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of Delinquent Lands...
Whittington...

was duly published in said paper once a week for two successive weeks commencing with the issue of the 26 day of April, 1966, and ending with the issue of the 23 day of April, 1966, and was posted at the front door of the Court House of said Kanawha County, West Virginia, on the 26 day of April, 1966.

Dates Published:
April 26, 27, 1966 *C. H. H. H. H.*

Subscribed and sworn to before me this 23 day of April, 1966.
Thomas H. H. H.

Notary Public of Kanawha County, West Virginia

My Commission expires May 16, 1966

Printer's Fee \$ 10.00

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA, by William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia,

Plaintiff

MAY 26 1966

Lewis A. Hitchcock

VR.

Civil Action No. 6152

L. (LEMUEL) A. WHITTINGTON, ET AL.

Defendants

THE REPORT OF SALE OF WILLIAM B. MAXWELL, DEPUTY
COMMISSIONER OF FORFEITED AND DELINQUENT LANDS
FOR KANAWHA COUNTY, WEST VIRGINIA

TO THE HONORABLE FRANK L. TAYLOR, JUDGE OF SAID COURT:

The undersigned, William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, who was directed by an order entered by Your Honorable Court in the above styled civil action on the 11th day of April, 1966, to sell, unless sooner redeemed or dismissed, certain real estate described in said order, at public auction, at the Virginia Street, (North-Front) door of the Court House of Kanawha County, West Virginia, on Tuesday, the 26th day of April, 1966, to the highest bidder for cash at time of sale, respectfully reports unto Your Honor as follows:

That pursuant to said order of sale, the undersigned advertised the time, terms and place of sale by causing to be published, once a week for two successive weeks in The Charleston Gazette, and in The Charleston Daily Mail, two newspapers of opposite politics, published in Kanawha County, a notice of said sale, containing a list of all of the real estate ordered to be sold and setting forth as to each item its quantity, local description and

the name or names of the former owner or owners thereof, as required by said order of sale, all of which more fully and at large appear from the Certificate of Publication of each of said newspapers, which Certificates of Publication are attached hereto and made a part hereof, marked for identification "Plaintiff's Exhibit A." The undersigned further reports that the first publication of said notice of sale was made at least fifteen (15) days prior to the day of sale, as provided by law.

II

That by virtue of said order of sale, the undersigned, after having first advertised the time, terms and place of sale as required by said order offered for sale, at public auction, to the highest bidder for cash at time of sale, at the Virginia Street, (North-Front) door of the Court House of Kanawha County, West Virginia, beginning at ten (10) o'clock a.m. on Tuesday, the 26th day of April, 1966, the real estate directed to be sold by said order of sale, at which sale the following named persons became purchasers, each being the highest bidder, for the amount indicated opposite their respective names of the following real estate, to-wit:

1. Certification Number 9504, described as 68 Acres, 1/8 Acre oil and gas interest, Waters Martins Branch, Union District, Kanawha County, West Virginia.
 Purchased by W. P. Dodd for the sum of \$ 30.00
 Total amount due at time of sale 42.58
 Deficit 12.58
2. Certification Number 9505, described as 2 acres, Coal Martins Branch, Union District, Kanawha County, West Virginia.
 Purchased by Consolidated Realty Co., Inc. and Stonestreet Land Co., Inc. for the sum of 1.00
 Total amount due at time of sale 49.14
 Deficit 48.14

3. Certification Number 9772, described as 50 Acres, 3/4 Acres, more or less, coal interest, Coopers Creek, Poca District, Kanawha County, West Virginia.

Purchased by Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for the sum of 5.00
 Total amount due at time of sale 59.92
 Deficit 54.92

4. Certification Number 9773, described as 1/2 coal interest, 43-3/4 Acres Tupper Creek, Poca District, Kanawha County, West Virginia.

Purchased by Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc., for the sum of 5.00
 Total amount due at time of sale 58.42
 Deficit 53.42

5. Certification Number 9774, described as 1/2 mineral interest, 6 Acres Right Hand Fork of Poca, Poca District, Kanawha County, West Virginia.

Purchased by Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for the sum of 1.00
 Total amount due at time of sale 37.50
 Deficit 36.50

6. Certification Number 9775, described as 1/2 mineral interest 116-1/2 Acres Camp Creek, Poca District, Kanawha County, West Virginia.

Purchased by W. P. Dodd for the sum of 140.00
 Total amount due at time of sale 58.77
 Surplus 81.23

7. Certification Number 9776, described as 20 Acres mineral interest Grapevine Creek, Poca District, Kanawha County, West Virginia.

Purchased by W. T. Young for the sum of 15.00
 Total amount due /at time of sale 38.90
 Deficit 23.90

8. Certification Number 9777, described as 1/4 mineral interest 52-1/10 Acres Allen Fork, Poca District, Kanawha County, West Virginia
- | | |
|--|-------|
| Purchased by W. P. Dodd for the sum of | 35.00 |
| Total amount due at time of sale | 40.90 |
| Deficit | 5.90 |
9. Certification Number 9778, described as 1/8 mineral interest 85 Acres Right Hand Fork Poca, Poca District, Kanawha County, West Virginia.
- | | |
|--|-------|
| Purchased by W. P. Dodd for the sum of | 40.00 |
| Total amount due at time of sale | 41.40 |
| Deficit | 1.40 |
10. Certification Number 9779, described as 53 Acres, 1/2 mineral interest Two Mile Creek, Union District, Kanawha County, West Virginia.
- | | |
|---|-------|
| Purchased by Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for the sum of | 90.00 |
| Total amount due at time of sale | 48.88 |
| Surplus | 41.12 |
11. Certification Number 9785, described as 1/8 mineral interest, 125 Acres 2 Mile Creek, Union District, Kanawha County, West Virginia.
- | | |
|---|-------|
| Purchased by Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for the sum of | 5.00 |
| Total amount due at time of sale | 44.27 |
| Deficit | 39.27 |
12. Certification Number 9792, described as Lot 14, Block 3 Gore Addition, Union District, Kanawha County, West Virginia.
- | | |
|--|-------|
| Purchased by Jimmie Summers for the sum of | 75.00 |
| Total amount due at time of sale | 52.27 |
| Surplus | 22.73 |

13. Certification Number 9793, described as 4/5 Acre, more or less, Rocky Fork Rust Farm, Union District, Kanawha County, West Virginia.

Purchased by Jimmie Summers for the sum of	20.00
Total amount due at time of sale	41.88
Deficit	21.88

III

The undersigned further reports that the total purchase money for each of the foregoing described lots and tracts, or undivided interests therein, was paid by each of the purchasers in cash at the time of sale, to the Sheriff of Kanawha County or to one of his deputies attending the sale, as required by said order of sale, and that proper receipts were issued by said Sheriff to the respective purchasers for the purchase money paid by them.

IV

The undersigned further reports that at the sale so held it was publicly announced that the State of West Virginia offered for sale, and sold, only such interest as was vested in the State at the time of sale, and that the sales were made subject to the right of the former owner, his heirs or assigns, to redeem the real estate sold at any time prior to the confirmation of the sale, and further subject to the right of the Court to order the dismissal of any of the real estate sold for any of the causes set forth in Section 25, Article 4, Chapter 11A of the Code, as amended, and to refund to the purchaser his purchase money for said real estate. It was further publicly announced at said sale that application would be made by the undersigned to Your Honorable Court for an order confirming the sales of said real estate thirty days after the day of sale or as soon thereafter as an order of confirmation could be properly entered, and that the purchasers of said real estate would have thirty days in which to apply for a refund of their purchase money as provided by said Section 25, Article 4, Chapter 11A of the Code, as amended.

v

The undersigned further reports that the sale of the foregoing described real estate was made and conducted, in all respects, in conformity to said order of sale and as provided by law; that the prices received for said real estate were the best prices obtainable therefore, and were as high as might reasonably be expected; and that, in the opinion of the undersigned, each of said sales should be confirmed.

Dated and respectfully submitted this 25th day of May, 1966.

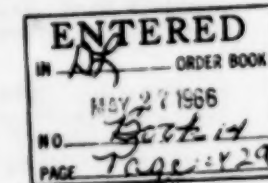
William B. Maxwell
Deputy Commissioner of Forfeited
and Delinquent Lands for Kanawha
County, West Virginia.

PLAINTIFF'S EXHIBIT No. 18
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA, by William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia

vs.

L. (LEWEL) A. WHITTINGTON, ET AL



Civil Action No. 6152

This action came on this day for hearing upon the papers heretofore read herein, upon the former orders made herein, upon the report of William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, heretofore filed with the Clerk of this Court on the 26th day of May, 1966, showing what was done with respect to the lands which were directed to be sold by said Deputy Commissioner for the benefit of the school fund by an order entered by this Court in this cause on the 11th day of April, 1966. And there being no objections or exceptions to said report, and the Court perceiving no just ground for exceptions, and it appearing to the Court, and the Court being of the opinion, that said report was made and filed in conformity to said order of sale, it is ORDERED and ADJUDGED that said report be, and the same is hereby approved, ratified and confirmed.

And it appearing to the Court from said report that the real estate described in, and directed to be sold by, said order of sale, to-wit, the real estate designated in order of sale as Certification Numbers 9504, 9505, 9772, 9773, 9774, 9775, 9776, 9777, 9778, 9779, 9785, 9792 and 9793, and next hereinafter described, was sold by said Deputy Commissioner, upon the terms and subject to the conditions required by said order, to the following named purchasers for the following prices, namely:

1. Certification Number 9504, described as 68 Acres, 1/8 Acre oil and gas interest, Waters Martins Branch, Union District, Kanawha County, West Virginia, was sold to W. P. Dodd for \$30.00.

2. Certification Number 9505, described as 2 acres, Coal Martins Branch, Union District, Kanawha County, West Virginia, was sold to Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for \$1.00.
3. Certification Number 9772, described as 50 Acres, 3/4 Acres, more or less, coal interest, Coopers Creek, Poca District, Kanawha County, West Virginia, was sold to Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for \$5.00.
4. Certification Number 9773, described as 1/2 coal interest, 43-3/4 Acres Tuppera Creek, Poca District, Kanawha County, West Virginia, was sold to Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for \$5.00.
5. Certification Number 9774, described as 1/2 mineral interest, 6 Acres Right Hand Fork of Poca, Poca District, Kanawha County, West Virginia, was sold to Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for \$1.00.
6. Certification Number 9775, described as 1/2 mineral interest 116-1/2 Acres Camp Creek, Poca District, Kanawha County, West Virginia, was sold to W. P. Dodd for \$140.00.
7. Certification Number 9776, described as 20 Acres mineral interest Grapevine Creek, Poca District, Kanawha County, West Virginia, was sold to W. T. Young for \$15.00.
8. Certification Number 9777, described as 1/4 mineral interest 52-1/10 Acres Allen Fork, Poca District, Kanawha County, West Virginia, was sold to W. P. Dodd for \$35.00.
9. Certification Number 9778, described as 1/8 mineral interest 85 Acres Right Hand Fork Poca, Poca District, Kanawha County, West Virginia, was sold to W. P. Dodd for \$40.00.
10. Certification Number 9779, described as 53 Acres, 1/2 mineral interest Two Mile Creek, Union District, Kanawha County, West Virginia, was sold to Consolidated Realty Co., Inc. and Stonestreet Lands Co., Inc. for \$90.00.
11. Certification Number 9785, described as 1/8 mineral interest, 125 Acres 2 Mile Creek, Union District, Kanawha County, West Virginia, was sold to Consolidated Realty Co., Inc. and Stonestreet Land

Co., Inc. for \$5.00.

12. Certification Number 9792, described as Lot 14, Block 3 Gore Addition, Union District, Kanawha County, West Virginia, was sold to Jimmie Summers for \$75.00.
13. Certification Number 9793, described as 4/5 Acre, more or less, Rocky Fork Rust Farm, Union District, Kanawha County, West Virginia, was sold to Jimmie Summers for \$20.00.

And it further appearing to the Court from said report that notice of said sale was duly published, once a week for two successive weeks, beginning at least fifteen days prior to the day of sale, in The Charleston Gazette and in The Charleston Daily Mail, two newspapers of opposite politics published in Kanawha County, and that each of the above described tracts and parcels of land, or undivided interests therein, was sold at public auction to the highest bidder for cash at time of sale, as required by said order of sale; and it further appearing to the Court, and the Court being of the opinion, that the price for which each of the above described tracts and parcels of land, or undivided interests therein, was sold, was the best price obtainable therefor and was as high as might reasonably be expected; and it further appearing to the Court, and the Court being of the opinion, that said sales were made and conducted, in all respects, in accordance with the provisions of said order of sale and as provided by law; it is further ORDERED and ADJUDGED that the sale of each of the above described tracts and parcels of land, or undivided interests therein, to the above named purchaser thereof, for the amount set out above be, and the same is hereby, approved, ratified and confirmed.

And it further appearing to the Court from said report that the purchase money for each of the above described tracts and parcels of land, or undivided interests therein, has been paid in full to the Sheriff of Kanawha County as provided by law, it is further ORDERED and ADJUDGED that the said William B. Maxwell, De-

puty Commissioner, as aforesaid, do make, execute, acknowledge, record and deliver to the respective purchasers of said real estate, their heirs or assigns, an apt and proper deed for each item of real estate so purchased by them, as aforesaid, upon the payment by the grantee or grantees in each of said deeds to said Deputy Commissioner of a fee of Five Dollars (\$5.00) for each of said deeds, and to the County Clerk of Kanawha County the transfer and recording fees necessary to record each of said deeds and any assignment thereto, all as provided by Sections 31 and 32 of Article 4, Chapter 11A of the Code, as last amended.

It is further ORDERED and ADJUDGED that William B. Maxwell, Deputy Commissioner, as aforesaid, be, and he is hereby, allowed as compensation for his services, an attorney's fee of Ten Dollars (\$10.00) for each item of real estate sold by him, as aforesaid, and above described, and, in addition thereto, a commission of ten per cent (10%) of the total proceeds received from the sale of said real estate; and the Sheriff of Kanawha County is hereby ordered and directed to pay said sums to said Deputy Commissioner as provided by law.

And it further appearing to the Court from said report that there is a surplus over and above the taxes, interest and costs chargeable to the real estate designated and described as Certification Numbers 9775, 9779, and 9792 to which the former owners, or the heirs or assigns of the former owners, of such real estate may be entitled, it is further ORDERED and ADJUDGED that the Sheriff of Kanawha County shall retain and hold such surplus as provided by Section 28, Article 4, Chapter 11A of the Code, as last amended, and shall disburse and distribute the balance of the proceeds received from the redemption and sale of the real estate included in this action, as provided by law.

The Court doth now certify that Charles W. Love, III,

guardian ad litem for all known and unknown infants, if any, who are or may be interested in any of the lands included in this action, was present at the bar of this Court at and during all of the hearings and proceedings in this cause, including the entry of this order.

Dated this 27th day of May, 1966.

Enter:

Frank L. Taylor
Judge

PLAINTIFF'S EXHIBIT No. 19
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

1467 PAGE 378

THIS DEED, made this 1st day of June, 1966, by and between WILLIAM B. MAXWELL, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, acting for and on behalf of the State of West Virginia, hereinafter called Grantor, and W. P. DODD, hereinafter called Grantee.

WHEREAS, in pursuance of and in accordance with the statutes in such case made and provided, and pursuant to an order of the Circuit Court of Kanawha County made and entered on the 11 day of April, 1966, in a civil action therein pending entitled, State of West Virginia, by William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, vs.

L. (Lemuel) A. Whittington, et al, the above named Deputy Commissioner did sell, for the benefit of the School Fund, on the 26th day of April, 1966, according to the terms and conditions of said decree, the hereinafter described real estate to W. P. Dodd for the sum of \$30.00, cash in hand at time of sale; and

WHEREAS, the said purchase money was paid to the Sheriff of Kanawha County, West Virginia, or to one of his deputies attending said sale, as provided by law; and

WHEREAS, the said Court by a subsequent order made in said cause on the 27th day of May, 1966, confirmed said sale and directed a deed for said real estate to be made to said purchaser by said Deputy Commissioner;

NOW, THEREFORE, THIS DEED WITNESSETH: That for and in consideration of the premises and in pursuance of the statute, the said Grantor does hereby grant and convey unto the said Grantee the real estate so purchased at said sale, being the same real estate designated in the Auditor's Certified List and in the complaint and other proceedings in said cause as Certification Number 9504 situate in Kanawha County, West Virginia, and more particularly described as follows:

68 Acres, 1/8 Acre oil and gas interest, Waters Martins Branch, Union District, Kanawha County, West Virginia, being the same property conveyed to H. C. Pearson, Jr. by W. H. O'Dell and Minerva E. O'Dell, his wife, by deed dated February 8, 1937, and of record in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Deed Book 428, at page 53, reference to which deed is here made for a more particular description of said property.

The above described real estate is the same which was sold to the State of West Virginia in the year 1962 for the payment of taxes thereon for the year(s) 1961, included in the State of West Virginia for summary for the year 1961-62, both inclusive, in the name(s) of H. C. Pearson, Jr.

The Grantor does hereby declare that the property transferred by this document is not subject to state excise tax upon the privilege of transferring real estate for the reason that it is a transfer from the State of West Virginia.

WITNESSE the following signature and seal the day and year first above written.

William B. Maxwell (SEAL)
Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, ss: We

I, Geraldine D. Alexander, a Notary Public in and for said County of Kanawha, and State of West Virginia, do certify that William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands for Kanawha County, West Virginia, whose name is signed to the foregoing writing bearing date the 1st day of June, 1966, has this day acknowledged the same before me in my said County.

Given under my hand this 1st day of June, 1966.

My commission expires October 1, 1973.

This instrument was prepared

by William B. Maxwell. 11:19

Notary Public in and for Kanawha County,
West Virginia

This instrument was presented to the Clerk of the County Court of Kanawha County, West Virginia, on JAN 28 1966 and the same is admitted to record

Notary: *Paul E. Lusk*
Kanawha County Court

PLAINTIFF'S EXHIBIT No. 20
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

53815

PAGE 145 PAGE 67

THIS AGREEMENT, made and entered into this 27th day of December, A.D., 1957, by and between Marvin Bull and Sarah Ann Bull, his wife, Minnie B. O'Dell, Guardian for Gail, Gary and Douglas O'Dell, Marvin V. Colpepper and Corinne Elaine Colpepper, his wife, Carmen Elaine Colpepper, Guardian for Charles Wesley and Alice Lucille Colpepper, infants and Ross Colpepper and Olive O'Dell Colpepper, his wife, of Charleston, West Virginia, County of Kanawha, State of West Virginia.

parties of the first part, hereinafter called "Lessor", and UNITED FUEL GAS COMPANY, a corporation, party of the second part, hereinafter called "Lessee".

WITNESSETH: The Lessor, in consideration of the sum of One (\$1.00) Dollar, paid by the Lessee, the receipt of which is hereby acknowledged, and of the covenants hereinafter contained, on the part of the Lessee to be paid, kept and performed, has granted, devised, leased and let and by these presents does grant, devise, lease and let, with covenants of quiet possession and sole right so to grant and devise, unto the Lessee, for the purpose of searching for, exploring, drilling and operating for and marketing oil and gas, and of storing gas of any kind regardless of the source thereof in the oil and gas strata therein including the right of injecting gas therein and removing the same therefrom together with the right to lay pipe lines, and build tanks, stations, telephone, telegraph and electric power lines, houses for gates, meters and regulators with all other rights, privileges, appliances and structures necessary, incident or convenient for the operation of this lease alone and conjointly with neighboring lands, all that certain tract of land situate in

Union District, Kanawha County and State of West Virginia, on the waters of MARTINS BRANCH, bounded substantially as follows:

On the North by lands of William S. Pugh

On the East by lands of Rudy Davis

On the South by lands of James D. Henry

On the West by lands of A.S. Bailey, et al

Containing 68 acres, more or less, but no well shall be drilled by either party, except by mutual consent, within 250 feet of the dwelling house or barn now on said premises.

IN CONSIDERATION OF THE PREMISES, the parties hereto covenant and agree:

FIRST: That this lease shall continue for a term of five years from and after the date hereof, and as much longer thereafter as said tract of land is operated by Lessee in the search for or production of oil or gas, and/or so long as the same is used for underground storage of gas and the removal thereof, either through the operation of wells on the above described tract of land or on tracts in the same storage field.

SECOND: Lessee will deliver to the owner or owners of the oil, free of cost, in the pipe line to which said Lessee may connect its wells, a royalty of the equal one-eighth (1/8) part of all oil produced and saved from the leased premises.

THIRD: For all gas produced, marketed and used off of said premises, with the exception of gas removed from a stratum known as *Big Lick*, in which Lessee proposes to store gas, under the terms hereof, to pay to Lessor *thirty percent (30%)* of the wholesale market value thereof, at the well head upon the usual price paid therefor in the general locality of said leased premises, payable quarterly, such payments to begin shortly after completion of each well, and to pay Lessee for each well drilled to the said stratum known as *Big Lick*, in which Lessee stores gas, *thirty percent (30%)* of the sum of \$300.00 per year, payable quarterly, in advance, Lessee to have the right to install and maintain on said premises all necessary equipment and appliances and to do any and all other things as may be reasonably necessary for the purpose of utilizing said premises for the production and storage of gas, as well as the injection of gas therein and the removal of same therefrom.

In the event the covenants provided for in Paragraphs Second and Third hereof, insuring to the owner or owners of the oil and gas underlying the above described tract of land, do not, in the aggregate, equal or exceed a sum of money equivalent to One (\$1.00) Dollar per acre per year, then Lessee shall pay to such owners thereof the difference between the amounts so received and One (\$1.00) Dollar per acre per year, to the end that Lessee shall, in any event, pay to the owners of the oil and gas underlying said tract of land a minimum of One (\$1.00) Dollar per acre per year, payable *Annually* in advance, beginning *January 1st*, 1958.

FOURTH: If the Lessor does not have title to all the oil and gas under said premises, or if the acreage or even lands owned is in excess of the true quantity of land in said premises, the Lessor agrees, on demand made, to refund delay rentals and royalties paid and release Lessee from the payment of future rentals or royalties in proportion to the outstanding title or difference between the recited and true acreage. In case of the failure of Lessor to so refund, Lessee shall have and is here given the right to apply future rentals and/or royalties on such overpayment until the amount thereof is paid. If the recited acreage or area be found to be less than the quantity of land in said premises, Lessee, on demand made, shall pay up arrears or deficiency in rental payments on the basis of the excess of the true over the said recited acreage, and thereafter make payments under this lease on the basis of the true acreage.

FIFTH: Lessee shall have the right to abandon any well which has heretofore or may hereafter be drilled on said premises to the said storage stratum, known as *Big Lick*, as well also as the right of abandoning any well drilled to any other stratum which is not producing oil or gas in paying quantities. In such event, however, the owners of the oil and gas underlying said tract of land, until this lease is duly recorded, shall be paid not less than One (\$1.00) Dollar per year per acre, as provided in Paragraph Third hereof.

BEST COPY AVAILABLE

**PLAINTIFF'S EXHIBIT No. 21
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA**

164 314

THIS AGREEMENT, Made and entered into this 17th day of February, 1967, by and between W. F. DODD and ERNESTINE DODD, his wife, parties of the first part, and UNITED FUEL GAS COMPANY, a West Virginia corporation, party of the second part,

W I T N E S S E T H:

THAT WHEREAS, by oil and gas lease agreement dated December 27, 1957, Marvin Null and Sarah Null, his wife, and Maxine H. O'Dell and others, heirs and devisees of W. H. O'Dell, deceased, leased unto the party of the second part a certain tract of land containing 68 acres, more or less, situate on the waters of Martins Branch, in Union District, Kanawha County, West Virginia, which said lease is recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 145, at page 67; and,

WHEREAS, one Cecle G. Pearson owned an interest in the aforesaid tract of land, but did not join in the said lease agreement of December 27, 1957; and,

WHEREAS, by deed dated June 1, 1966, recorded in the aforesaid Clerk's office in Deed Book 1467, at page 376, William B. Maxwell, Deputy Commissioner of Forfeited and Delinquent Lands, conveyed unto W. F. Dodd, one of the parties of the first part herein, the interest formerly owned by the said Cecle G. Pearson in said tract of land; and,

WHEREAS, the parties of the first part now desire to adopt, ratify and confirm the said lease agreement of December 27, 1957.

164 315

To the aforementioned lease, deed and records reference is here made for all purposes.

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other considerations, cash in hand paid, the receipt of which is hereby acknowledged, the parties of the first part hereby ratify and confirm unto the party of the second part, its successors and assigns, the aforesaid lease agreement of December 27, 1957, such ratification and confirmation to be considered effective as of the 1st day of June, 1966. All payments due hereunder shall be made to W. F. Dodd, Route #1, Box 301, Elkview, W. Va. 25071.

WITNESS the following signatures and seals.

W. F. Dodd (SEAL)

Ernestine Dodd (SEAL)

STATE OF West Virginia
COUNTY OF Kanawha TO-WIT:

I, Joseph C. Crim, a Notary Public of said county, do certify that W. F. DODD and ERNESTINE DODD, his wife, whose names are signed to the writing above bearing date the 17th day of February, 1967, have this day acknowledged the same before me in my said county.

Given under my hand this 17 day of Feb, 1967.

My commission expires July 31, 1971

Notary Public

This instrument was prepared by
Joseph C. Crim, P. O. Box 1273,
Charleston, West Virginia.

This instrument was presented to the Clerk of the County Court of Kanawha County, West Virginia, on APR 1 1967 and the same is admitted to record.

Teste: Paul E. Wehrle Clerk
Kanawha County Court

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Lease Book 164 A true copy from the records.
Page 314 Teste: Paul E. Wehrle, Clerk,
Date 7-17-68 By Alma M. Miller Deputy
Kanawha County Court.

BEST COPY AVAILABLE

PLAINTIFF'S EXHIBIT No. 22
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

53845

WV 169 727

THIS AGREEMENT, Made and entered into this 13 day of November, 1967, by and between Sarah Ann Hull & Martin Hull her husband and United Fuel Gas Company as of the first part, hereinafter called "Lessor", and UNITED FUEL GAS COMPANY, a corporation, party of the second part, hereinafter called "Lessee".

WITNESSETH:

THAT WHEREAS, by agreement dated December 23, 1957 Martin Hull et al granted unto United Fuel Gas Company an oil and gas combination production and storage lease covering a tract of land containing 6.8 acres, more or less, situate on the waters of Martin Branch, in Union District, Kanawha County, West Virginia, and recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 145, at page 2A.

WHEREAS, Lessor is now the owner of the property covered by said lease; and

WHEREAS, the Lessor and Lessee, for their mutual benefit, desire to amend said lease agreement in order to facilitate the formation of drilling units for deep gas production.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) paid by the Lessee to Lessor, the receipt of which is hereby acknowledged, and of the covenants hereinafter contained, Lessor and Lessee hereby supplement and modify said lease as follows, to-wit:

Lessee hereby is given the right at its option, at any time from the date hereof while said lease shall be in effect and from time to time within such period, to pool the gas leasehold estate below the top of the Carboniferous Lime formation in all or part of the leased premises with like leasehold estates in other lands in the vicinity thereof, to create drilling units for deep gas production of such size and surface acreage as Lessee may desire, but containing not more than 300 acres plus 10% acreage tolerance. Each unit may be created by a written declaration notice executed by Lessee and delivered to Lessor containing a description of the unit so created. Any well which is commenced, or is drilled or is producing on any part of any lands theretofore or thereafter so pooled shall, except for the payment of royalties, be considered a well commenced, drilled, and producing on the lands covered by this lease. There shall be allocated to the portion of the leased premises included in any such pooling such proportion of the actual production from all lands so pooled as such portion of the leased premises, computed on an acreage basis, bears to the entire acreage of the lands so pooled. The production so allocated shall be considered for the purpose of payment of royalty to be the entire production from the portion of the leased premises included in such pooling in the same manner as though produced from such portion under the terms of this lease. Said option

- 1 -
53845

WV 169 727

may be exercised by Lessee from time to time, and a unit may be formed either before or after a well has been drilled or production has been established on the leased premises or on a portion of the leased premises which is included in the pool or in other lands which are pooled therewith. Lessee shall continue to pay unto Lessor, in addition to the production royalties as provided, the minimum payment of One Dollar (\$1.00) per acre per year provided for in the original lease, so long as the big lime stratum therein is utilized for the underground storage of gas.

WITNESS the following signatures and seals all as of the day and year first above written.

Sarah Ann Hull (SEAL)
Martin Hull (SEAL)
W. D. Hull (SEAL)
Executive Sec'y (SEAL)
(SEAL) (SEAL)

UNITED FUEL GAS COMPANY

By Robert W. Bryan
Vice President

ATTEST:
Robert W. Bryan
Assistant Secretary

STATE OF West VirginiaCOUNTY OF Kanawha, TO-WIT:

I, Bonny M. Martin, a Notary Public of said county, do certify that Sarah Ann Hull & Martin Hull her husband whose names are signed to the writing above bearing date the 13 day of November, 1967, have on this day acknowledged the same before me in my said county.

Given under my hand this 14 day of November, 1967.

My commission expires October 1, 1971B. M. Martin

Bonny M. Martin
Notary Public

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BEST COPY AVAILABLE

STATE OF West Virginia
COUNTY OF Kanawha TO-WIT:
I, Dorsey C. Martin, a Notary Public of said
county, do certify that H. P. Dodd & Ernestine
Dodd, his wife, whose names are signed to the writing
above bearing date the 13 day of November, 1967,
have this day acknowledged the same before me in my said county.
Given under my hand this 16 day of November,
1967.
My commission expires June 15, 1977
DORSEY C. MARTIN
Notary Public

STATE OF _____
COUNTY OF _____ TO-WIT:
I, _____, a Notary Public of said
county, do certify that _____
_____ signed to the writing
above bearing date the _____ day of _____, 19____,
have this day acknowledged the same before me in my said county.
Given under my hand this _____ day of _____,
19____.
My commission expires _____

Notary Public

STATE OF West Virginia
COUNTY OF Kanawha TO-WIT:
I, M. M. Miller, a Notary Public of said
county, do certify that St. St. Ferrell, Vice
President, signed the writing hereto annexed bearing
date the 13th day of November, 1967, for UNITED
FUEL GAS COMPANY, his said client in my said county. Before me,
acknowledged the said writing to be the act and deed of said
corporation.
Given under my hand this 27th day of November,
1967.
My commission expires August 21, 1977
M. M. MILLER
Notary Public, State of West Virginia
My Commission Expires Aug. 21, 1977

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This instrument was presented to the Clerk of the County
Court of Kanawha County, West Virginia, on DEC 22 1967
and the same is admitted to record

Teste: Paul E. Wehrle Clerk
Lease Kanawha County Court
Book 169 A true copy from the record.
Teste: Paul E. Wehrle, Clerk,
Kanawha County Court.
Page 727
Date 9-18-68 By Alan Miller Deputy

PLAINTIFF'S EXHIBIT No. 23
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

BOOK 170 PAGE 225

DECLARATION-NOTICE OF UNITILATION

TO:

ADAM BAILLY and
GLADYS BAILLY, his wife;
ALMA HOLMES and
C. J. HOLMES, her husband;
MAE LANNERS and
O. W. LANNERS, her husband;
MURIEL C. THOMAS and
S. A. THOMAS, her husband;
ROSCOE McCLAMAHAN and
LOIS McCLAMAHAN, his wife;
HENRY M. McCLAMAHAN and
JUANITA McCLAMAHAN, his wife;
L. P. POPPENBARGER and
VIRGINIA J. POPPENBARGER, his wife

Part of the Lessors,
Lease No. 53531

H. P. WILLIAMS and
CONSTANCE WILLIAMS, his wife

Lessors, James S. Ray
Lease

JAMES D. KELLY

Lessor, Leases Nos.
62440 and 49034

MAXINE W. O'DELL, Guardian for
Linda Gale O'Dell and Douglas
B. O'Dell, infants;
GARY O'DELL;
OLIVE O'DELL CULPEPPER and
C. ROSS CULPEPPER, her husband;
MARVIN W. CULPEPPER and
CARMIN ELAINE CULPEPPER, his wife;
CARMIN ELAINE CULPEPPER, Guardian
for Charles Wesley Culpepper,
James Marvin Culpepper, John
Butler Culpepper and Alice
Lucille Culpepper, infants;
SARAH ANN HULL and
MARVIN HULL, her husband;
W. P. BOSS and
ERNESTINE BOSS, his wife

Lessors, Lease No.
53045

NOTICE is hereby given that UNITED FUEL GAS COMPANY,
a West Virginia corporation, and JAMES S. RAY, of Charleston,
West Virginia, have pooled and unitized the gas leasehold
estates in the formations below the top of the Corniferous
lime formation in the following described leases situate on

170 226

the waters of Martins Branch and Wilkerson Branch, tributaries of Pocatalico River, in Union District, Kanawha County, West Virginia, to form a drilling unit of Two Hundred Seventy (270) acres for the production of gas below the top of the Corniferous Lime formation, to-wit:

U.F.G. Lease No. 53531: undivided interest in 130 acres, surveyed; granted by James M. Bailey et al to United Fuel Gas Company, under date of February 10, 1956, as covering an undivided interest in 132 acres, more or less, and recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 142, at page 319; ratified by Violet Dawson Holden et con, Fred L. Bailey et ux, Brown Bailey, widower, Icie Watson et con, and Gertrude Mundy et con, by agreements dated November 28, 1956, and recorded in the aforesaid Clerk's office in Lease Book 142, at pages 85, 72, 84, 123 and 438, respectively; and by Arthur M. Bailey et ux, and Earl Bailey, single, by agreements dated December 14, 1956, and recorded in the aforesaid Clerk's office in Lease Book 142, at pages 121 and 137, respectively; which said lease was amended to provide for pooling for deep gas production by agreement between Adam Bailey et al and United Fuel Gas Company, dated December 15, 1967, and recorded in the aforesaid Clerk's office in Lease Book 170, at page 25.

James S. Ray Lease: undivided interest in 130 acres, surveyed (same tract covered by Lease 53531); granted by H. F. Williams and Constance Williams, his wife, to James S. Ray, under date of November 11, 1967, as covering an undivided interest in 132 acres, more or less, and recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 170, at page 8; and amended to provide for pooling for deep gas production by agreement dated December 22, 1967, and recorded in the aforesaid Clerk's office in Lease Book 170, at page 179.

U.F.G. Part Lease No. 62440: 18 acres, surveyed; granted by James D. Holly, single, to United Fuel Gas Company, under date of November 2, 1965, as covering 81 acres, more or less, and recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 168, at page 261 (the remaining portion of the leased premises is included in the Brooks McCabe et al 583 acre unit, Lease Book 168, page 656); and amended to provide for pooling for deep gas production by agreement dated November 23, 1967, and recorded in the aforesaid Clerk's office in Lease Book 168, at page 681.

170 227

U.F.G. Lease No. 49034: 34 acres, surveyed; granted by William S. Pugh and Lorena E. Pugh, his wife, to United Fuel Gas Company, under date of April 15, 1951, as covering 72 acres, more or less, and recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 127, at page 418; and amended to provide for pooling for deep gas production by agreement between James D. Kelly and United Fuel Gas Company, dated November 23, 1967, and recorded in the aforesaid Clerk's office in Lease Book 169, at page 689.

U.F.G. Lease No. 53845: 68 acres, surveyed; granted by Marvin Null and Sarah Ann Null, his wife, and Maxine N. O'Dell, Guardian et al to United Fuel Gas Company, under date of December 27, 1957, as covering 68 acres, more or less, and recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Lease Book 145, at page 67; and ratified by W. P. Dodd and Ernestine Dodd, his wife, by agreement dated February 17, 1967, and recorded in the aforesaid Clerk's office in Lease Book 164, at page 314; which said lease was amended to provide for pooling for deep gas production by Maxine N. O'Dell, Guardian et al by agreement dated November 6, 1967, recorded as aforesaid in Lease Book 169, at page 719, and by Sarah Ann Null and Marvin Null, her husband, and W. P. Dodd and Ernestine Dodd, his wife, by agreement dated November 13, 1967, and recorded as aforesaid in Lease Book 169, at page 727.

To the aforesaid leases, agreements and records reference is here made for all purposes.

Said leases are shown and identified on the plat attached hereto and made a part hereof, entitled "Map Showing Drilling Unit Declared by United Fuel Gas Company and James S. Ray, containing 270 acres, Martins Branch & Wilkerson Branch, Union Dist., Kanawha County, W. Va., Scale 1" = 1320', Dated January 8, 1968."

Each of the aforesaid leases will participate in the unit in the proportion indicated below:

BOOK 170 PAGE 228

Lease No. 53531)	
James S. Ray Lease)-	48.1481
Lease No. 62440	6.6671
Lease No. 49034	20.0001
Lease No. 53945	25.1851

This declaration-notice forming this drilling unit is made by authority of and pursuant to the pooling provisions contained in the aforesaid amendatory agreements to the aforesaid leases.

IN WITNESS WHEREOF, the said United Fuel Gas Company has caused its corporate name to be hereunto subscribed and its corporate seal hereunto affixed by its officers thereunto duly authorized, and the said James S. Ray has signed his name and affixed his seal, all as of this the 10th day of January, 1968.

UNITED FUEL GAS COMPANY
By [Signature]
Vice President

ATTEST:
[Signature]
Assistant Secretary

[Signature] (SRAL)
James S. Ray

BOOK 170 PAGE 229

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO-WIT:

I, R. L. WOOREY, a Notary Public of said county, do certify that J. S. Ray, Vice President, who signed the writing hereto annexed bearing date the 10th day of January, 1968, for UNITED FUEL GAS COMPANY, has this day in my said county, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this 10th day of January, 1968.

My commission expires December 17, 1974.

R. L. WOOREY
Notary Public

[Signature]
Notary Public

STATE OF West Virginia
COUNTY OF Kanawha, TO-WIT:

I, G. W. MASON, a Notary Public of said county, do certify that JAMES S. RAY, whose name is signed to the writing hereto annexed bearing date the 10th day of January, 1968, has this day acknowledged the same before me in my said county.

Given under my hand this 10th day of January, 1968.

My commission expires Dec. 19, 1975.

[Signature]
Notary Public

This instrument was prepared by Joseph C. Crim, P. O. Box 1273, Charleston, West Virginia.

This instrument was presented to the Clerk of the County Court of Kanawha County, West Virginia, on JAN 11 1968 and the same is admitted to record.

Teste: [Signature] Clerk
Kanawha County Court

LC25C Book 170 A true copy from the record.
Teste: 225
9-18-68 By [Signature] Deputy



PLAINTIFF'S EXHIBIT No. 25
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

[illegible]

BEST COPY AVAILABLE

DEFENDANT'S EXHIBIT NO. 1
STIPULATION OF PARTIES FILED JULY 9, 1971,
CIRCUIT COURT,
KANAWHA COUNTY, WEST VIRGINIA

U.F. Defendant's Exhibit No. 1
 June Stipulation of Parties filed July 9, 1971, Circuit Court,
 Kanawha County, West Virginia

8-5207-68
 Accts. Rec. 8-5216-68

WELL NO. 9486 P1

COMPANY United Fuel Gas Company BUDGET NO. 1805 WORK ORDER NO. 2861-12
 DIVISION Northern DATE REQUESTED March 25, 1968 DATE ORDERED April 3, 1968
 DISTRICT Union COUNTY Kanawha STATE West Virginia
 FARM Sarah A. Mull, ET. AL LEASE NO. 53531 et al ACRES 220
 ON WAYNE Martin Branch MAP SQUARE 58-67 COAL NOT OPERATED
 LOCATION MADE BY E. White DATE February 19, 1968 HOLE DEPTH 2113 FEET
 LEASE EXPIRES 19 No BUILDING WITHIN 400 FEET CLASS OF LOCATION A
 PURPOSE AND NEEDEDITY Increase Production
 RELATED WORK ORDER NO. FOR

TYPE AND DATE OF WORK		CHECK PERMITS OR SERVICES REQUIRED	
DRILL NEW WELL	<input checked="" type="checkbox"/> INT. START March 20, 1968	RIGHT OF WAY FOR ROAD	<input type="checkbox"/> DRILLING PERMIT
DRILL WELL DEEPEN	<input type="checkbox"/> INT. COMP March 29, 1968	WELL LOG	<input type="checkbox"/> ABANDONMENT PERMIT
ABANDON WELL	<input type="checkbox"/>	MEASURING EQUIPMENT	<input type="checkbox"/> SURVEY FOR W. & S. LINE

ESTIMATED DEPTH 5680 FEET, SAND, NEWBURG CONTRACTOR Ray Brothers Corporation

APPROVALS
 C. V. Clarkson Date March 25, 1968 A. E. Hardman (AVK) Date March 27, 1968
 J. R. Henning Date March 26, 1968

DETAIL OF ESTIMATED COST					DETAIL OF ACTUAL COST						
MATERIAL TO BE INSTALLED—GEOMETRIC		SIZE	QUANTITY	PRICE	AMOUNT	QUANTITY	PRICE	AMOUNT	VARIATION		
CASING	H	4 1/2"	1911	64 ¹	7.41	- 474.16	64 ¹	5.788	- 369.16	(104.84)	
"	H	"	32#	1900 ¹	3.66	5,954.16	1938 ¹	3.657	7,087.26	113.26	
"	H-80	"	23#	71 ¹	5650 ¹	3.25	18,363.25	5611 ¹	3.247	18,225.41	(137.84)
"	"	"	"	"	"	"	"	"	"	"	
"	"	"	"	"	"	"	"	"	"	"	
TUBING	J	"	4.60	211	5700 ¹	.63	3,591.00	5630 ¹	.629	3,541.27	(49.73)
"	"	"	"	"	"	"	"	"	"	"	
Road Casing	"	"	16 ¹	208 ¹	2.79	580.00	"	"	-	(580.00)	
Well Head Equipment	"	"	"	"	3,500.00	"	"	3,357.96	-	(142.04)	
Unset Nipple	"	"	2-3/8 ¹	"	"	"	1	91.90	"	91.90	
Misc. Fittings	"	"	"	"	"	"	Lot	83.88	"	83.88	
Nord Plug Valve #3044	"	"	2 ¹	"	"	"	1	154.01	"	154.01	
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TOTAL MATERIAL		TOTAL INSTALLATION AND OVERHEAD COST	
11,462.00	32,910.85	(551.15)	
LABOR	4,000.00	3,587.17	(412.83)
USE OF AUTOMOBILE AND TRAILING	3,500.00	3,255.45	(244.55)
DRILLING 5595 FEET @ \$5.25 PER FOOT	29,374.25	55831 @ \$5.25	29,310.75
ARND Misc. Costs per rider attached		3,677.47	3,677.47
SUPPLIES AND EXPENSES	500.00	506.26	6.26
GEOPHYSICAL SURVEY	220.00	440.32	220.32
Logging	2,000.00		(2,000.00)
Cement & Services	3,500.00	4,742.58	1,242.58
Mud & Chemicals	1,500.00	3,236.60	(2,036.60)
Fracturing Services	5,000.00	8,592.62	3,592.62
Extra Labor to Contractor & Rig Time	2,000.00	2,474.05	474.05
Float Shoe	100.00	111.92	11.92
Flow Collar	100.00	243.03	143.03
Centralizers	200.00	288.58	88.58
Rotary Bits	800.00	754.80	(45.20)
Casing Service - Run 7" Casing	350.00	406.00	51.00
Rental of Equipment	4,000.00	4,646.50	646.50
OVERHEAD EXPENSE AND PROFIT	6,023.00	5,633.32	(389.68)
LABOR OVERHEAD	624.00	655.66	31.66
INTEREST	265.00	155.25	(109.75)
ADMINISTRATIVE AND GENERAL LABOR OVERHEAD	794.00	841.80	47.80
TOTAL INSTALLATION AND OVERHEAD COST	65,069.00	71,590.02	6,521.02
TOTAL ESTIMATE	98,531.00	104,500.87	5,969.87

Form 11

WELL NO. 9486 P1

COMPLETION REPORT

WELL NO. 9486 P1
 DATE DRILLING 3-20-68 DRILLING STARTED 3-20-68 DRILLING COMPLETED 3-26-68
 DAYS DRILLING 6 TOTAL DEPTH 5631 PLUGGED BACK TO CONTRACTOR Ray Brothers Corp.
 INITIAL OPEN FLOW 15 MCF PER HOUR OPEN FLOW AFTER FRACTURE 100 MCF PER HOUR
 INITIAL ROCK PRESSURE 1969 LBS. DATE SHUT IN 3-26-68 PRODUCING SAME SERVICE
 PLUGGING STARTED 3-26-68 COMPLETED 3-26-68 CONTRACTOR

MATERIAL INSTALLED OR RETIRED			
QUANTITY	SIZE	DESCRIPTION	QUANTITY
64	1 1/2"	Casing 40 H 1 1/2"	64
97	3 1/2"	Casing 40 H 3 1/2"	97
71	2 1/2"	Casing 40 H 2 1/2"	71
211	4 1/2"	Tubing 40 J 4 1/2"	211
208	16"	Road Casing	208
1	9"	Casing Head WOOD	1
1	4"	Nipple 24	1
1	2"	Plug Valve Nord Plug 3044	1
1	2"	Nipple 24	1
1	2"	Steel Plug	1
1	2"	Ball Plug	1
1	4"	Needle Valve 10,000	1
2	4"	2 1/2" Open Ball Valve WOOD	2
1	2"	2 1/2" Open Ball Valve WOOD	1
1	9"	Ball Collar	1
1	9"	Ball Shoe	1
2	9"	Ball Basket #2310	2
5	9"	Ball Centralizer	5
1	7"	Ball M & P Collar	1
1	7"	Ball Shoe	1
5	7"	Ball Centralizer	5
1	1 1/2"	Pressure Record Gauge	1
1	4"	Yoke-JA Head Casing Bit	1
50-lbs		Aquagel	50-lbs
15-lbs		Dextrod	15-lbs
10-lbs		CS Balls	10-lbs
10-lbs		Flare Oil	10-lbs
10-lbs		Cellulose	10-lbs
10-lbs		Surfex 2-11	10-lbs

MATERIAL TRANSFER NUMBERS AND PURCHASE ORDER NUMBERS 1968 3-157 3-160 3-169 3-201 3-204 3-208 3-212 3-215 3-218 3-221 3-224 3-227 3-230 3-233 3-236 3-239 3-242 3-245 3-248 3-251 3-254 3-257 3-260 3-263 3-266 3-269 3-272 3-275 3-278 3-281 3-284 3-287 3-290 3-293 3-296 3-299 3-302 3-305 3-308 3-311 3-314 3-317 3-320 3-323 3-326 3-329 3-332 3-335 3-338 3-341 3-344 3-347 3-350 3-353 3-356 3-359 3-362 3-365 3-368 3-371 3-374 3-377 3-380 3-383 3-386 3-389 3-392 3-395 3-398 3-401 3-404 3-407 3-410 3-413 3-416 3-419 3-422 3-425 3-428 3-431 3-434 3-437 3-440 3-443 3-446 3-449 3-452 3-455 3-458 3-461 3-464 3-467 3-470 3-473 3-476 3-479 3-482 3-485 3-488 3-491 3-494 3-497 3-500 3-503 3-506 3-509 3-512 3-515 3-518 3-521 3-524 3-527 3-530 3-533 3-536 3-539 3-542 3-545 3-548 3-551 3-554 3-557 3-560 3-563 3-566 3-569 3-572 3-575 3-578 3-581 3-584 3-587 3-590 3-593 3-596 3-599 3-602 3-605 3-608 3-611 3-614 3-617 3-620 3-623 3-626 3-629 3-632 3-635 3-638 3-641 3-644 3-647 3-650 3-653 3-656 3-659 3-662 3-665 3-668 3-671 3-674 3-677 3-680 3-683 3-686 3-689 3-692 3-695 3-698 3-701 3-704 3-707 3-710 3-713 3-716 3-719 3-722 3-725 3-728 3-731 3-734 3-737 3-740 3-743 3-746 3-749 3-752 3-755 3-758 3-761 3-764 3-767 3-770 3-773 3-776 3-779 3-782 3-785 3-788 3-791 3-794 3-797 3-800 3-803 3-806 3-809 3-812 3-815 3-818 3-821 3-824 3-827 3-830 3-833 3-836 3-839 3-842 3-845 3-848 3-851 3-854 3-857 3-860 3-863 3-866 3-869 3-872 3-875 3-878 3-881 3-884 3-887 3-890 3-893 3-896 3-899 3-902 3-905 3-908 3-911 3-914 3-917 3-920 3-923 3-926 3-929 3-932 3-935 3-938 3-941 3-944 3-947 3-950 3-953 3-956 3-959 3-962 3-965 3-968 3-971 3-974 3-977 3-980 3-983 3-986 3-989 3-992 3-995 3-998 4-001 4-004 4-007 4-010 4-013 4-016 4-019 4-022 4-025 4-028 4-031 4-034 4-037 4-040 4-043 4-046 4-049 4-052 4-055 4-058 4-061 4-064 4-067 4-070 4-073 4-076 4-079 4-082 4-085 4-088 4-091 4-094 4-097 4-100 4-103 4-106 4-109 4-112 4-115 4-118 4-121 4-124 4-127 4-130 4-133 4-136 4-139 4-142 4-145 4-148 4-151 4-154 4-157 4-160 4-163 4-166 4-169 4-172 4-175 4-178 4-181 4-184 4-187 4-190 4-193 4-196 4-199 4-202 4-205 4-208 4-211 4-214 4-217 4-220 4-223 4-226 4-229 4-232 4-235 4-238 4-241 4-244 4-247 4-250 4-253 4-256 4-259 4-262 4-265 4-268 4-271 4-274 4-277 4-280 4-283 4-286 4-289 4-292 4-295 4-298 4-301 4-304 4-307 4-310 4-313 4-316 4-319 4-322 4-325 4-328 4-331 4-334 4-337 4-340 4-343 4-346 4-349 4-352 4-355 4-358 4-361 4-364 4-367 4-370 4-373 4-376 4-379 4-382 4-385 4-388 4-391 4-394 4-397 4-400 4-403 4-406 4-409 4-412 4-415 4-418 4-421 4-424 4-427 4-430 4-433 4-436 4-439 4-442 4-445 4-448 4-451 4-454 4-457 4-460 4-463 4-466 4-469 4-472 4-475 4-478 4-481 4-484 4-487 4-490 4-493 4-496 4-499 4-502 4-505 4-508 4-511 4-514 4-517 4-520 4-523 4-526 4-529 4-532 4-535 4-538 4-541 4-544 4-547 4-550 4-553 4-556 4-559 4-562 4-565 4-568 4-571 4-574 4-577 4-580 4-583 4-586 4-589 4-592 4-595 4-598 4-601 4-604 4-607 4-610 4-613 4-616 4-619 4-622 4-625 4-628 4-631 4-634 4-637 4-640 4-643 4-646 4-649 4-652 4-655 4-658 4-661 4-664 4-667 4-670 4-673 4-676 4-679 4-682 4-685 4-688 4-691 4-694 4-697 4-700 4-703 4-706 4-709 4-712 4-715 4-718 4-721 4-724 4-727 4-730 4-733 4-736 4-739 4-742 4-745 4-748 4-751 4-754 4-757 4-760 4-763 4-766 4-769 4-772 4-775 4-778 4-781 4-784 4-787 4-790 4-793 4-796 4-799 4-802 4-805 4-808 4-811 4-814 4-817 4-820 4-823 4-826 4-829 4-832 4-835 4-838 4-841 4-844 4-847 4-850 4-853 4-856 4-859 4-862 4-865 4-868 4-871 4-874 4-877 4-880 4-883 4-886 4-889 4-892 4-895 4-898 4-901 4-904 4-907 4-910 4-913 4-916 4-919 4-922 4-925 4-928 4-931 4-934 4-937 4-940 4-943 4-946 4-949 4-952 4-955 4-958 4-961 4-964 4-967 4-970 4-973 4-976 4-979 4-982 4-985 4-988 4-991 4-994 4-997 5-000 5-003 5-006 5-009 5-012 5-015 5-018 5-021 5-024 5-027 5-030 5-033 5-036 5-039 5-042 5-045 5-048 5-051 5-054 5-057 5-060 5-063 5-066 5-069 5-072 5-075 5-078 5-081 5-084 5-087 5-090 5-093 5-096 5-099 5-102 5-105 5-108 5-111 5-114 5-117 5-120 5-123 5-126 5-129 5-132 5-135 5-138 5-141 5-144 5-147 5-150 5-153 5-156 5-159 5-162 5-165 5-168 5-171 5-174 5-177 5-180 5-183 5-186 5-189 5-192 5-195 5-198 5-201 5-204 5-207 5-210 5-213 5-216 5-219 5-222 5-225 5-228 5-231 5-234 5-237 5-240 5-243 5-246 5-249 5-252 5-255 5-258 5-261 5-264 5-267 5-270 5-273 5-276 5-279 5-282 5-285 5-288 5-291 5-294 5-297 5-300 5-303 5-306 5-309 5-312 5-315 5-318 5-321 5-324 5-327 5-330 5-333 5-336 5-339 5-342 5-345 5-348 5-351 5-354 5-357 5-360 5-363 5-366 5-369 5-372 5-375 5-378 5-381 5-384 5-387 5-390 5-393 5-396 5-399 5-402 5-405 5-408 5-411 5-414 5-417 5-420 5-423 5-426 5-429 5-432 5-435 5-438 5-441 5-444 5-447 5-450 5-453 5-456 5-459 5-462 5-465 5-468 5-471 5-474 5-477 5-480 5-483 5-486 5-489 5-492 5-495 5-498 5-501 5-504 5-507 5-510 5-513 5-516 5-519 5-522 5-525 5-528 5-531 5-534 5-537 5-540 5-543 5-546 5-549 5-552 5-555 5-558 5-561 5-564 5-567 5-570 5-573 5-576 5-579 5-582 5-585 5-588 5-591 5-594 5-597 5-600 5-603 5-606 5-609 5-612 5-615 5-618 5-621 5-624 5-627 5-630 5-633 5-636 5-639 5-642 5-645 5-648 5-651 5-654 5-657 5-660 5-663 5-666 5-669 5-672 5-675 5-678 5-681 5-684 5-687 5-690 5-693 5-696 5-699 5-702 5-705 5-708 5-711 5-714 5-717 5-720 5-723 5-726 5-729 5-732 5-735 5-738 5-741 5-744 5-747 5-750 5-753 5-756 5-759 5-762 5-765 5-768 5-771 5-774 5-777 5-780 5-783 5-786 5-789 5-792 5-795 5-798 5-801 5-804 5-807 5-810 5-813 5-816 5-819 5-822 5-825 5-828 5-831 5-834 5-837 5-840 5-843 5-846 5-849 5-852 5-855 5-858 5-861 5-864 5-867 5-870 5-873 5-876 5-879 5-882 5-885 5-888 5-891 5-894 5-897 5-900 5-903 5-906 5-909 5-912 5-915 5-918 5-921 5-924 5-927 5-930 5-933 5-936 5-939 5-942 5-945 5-948 5-951 5-954 5-957 5-960 5-963 5-966 5-969 5-972 5-975 5-978 5-981 5-984 5-987 5-990 5-993 5-996 6-000

COMPILED BY Henry G. Dodd
 APPROVED BY H. G. Dodd

DATE April 23, 1968
 DATE April 23, 1968

Distribution of Costs

	Material	Installation	Total
James S. Ray	30,776.78	10,128.21	21,928.26
United Fuel Gas Co.	69,225.31	22,782.64	49,667.26
	32,910.85	71,590.02	104,500.87



REASON FOR VARIATION FROM ESTIMATE: Well was not logged.

IN THE CIRCUIT COURT OF
KANAWHA COUNTY,
WEST VIRGINIA

Civil Action No. 8310

[Title Omitted]

[Filed June 21, 1972]

ORDER

This day came counsel for the respective parties, the Court having previously announced its opinion to deny the motion of the plaintiff to set aside the order of this Court entered on June 19, 1972, and to order a new trial as prayed for therein.

Therefore, it is accordingly ORDERED that the plaintiff's motion to set aside the order of this Court entered on June 19, 1972, and to order a new trial and to grant the relief prayed for in said motion, which said motion is here filed, be, and the same is overruled and the relief prayed for therein denied, to which action the plaintiff does hereby except and object, and it is further ORDERED that the Court's letter memorandum of opinion be amended to read on page 10 thereof that this action was not submitted to the Court for decision until July 9, 1971.

Thereupon, on motion, plaintiff is granted a stay of execution in this matter for a period of ninety (90) days from this date in order to permit her to petition the Supreme Court of Appeals of West Virginia for a writ of error and supersedeas.

WHEREUPON, in view of the present intention of the plaintiff, the Clerk of this Court is directed to prepare the official transcript of the proceedings had, Interrogatories, Answers thereto, Depositions, Stipulations, and Exhibits and findings of fact and conclusions of law, now here ORDERED filed and made a part of the record herein

for certification by the official reporter of this Court for use on appeal.

This 21st day of June, 1972.

Enter:

/s/ Frank L. Taylor

Judge

[Attorneys' Approval Omitted]

**AFFIDAVIT OF SERVICE OF
APPENDIX**

**STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, TO-WIT:**

I, PHILIP G. TERRIE, attorney for Cecle G. Pearson, Appellant herein, depose and say that on the 4th day of August, 1976, I served three copies of the foregoing Appendix upon W. P. Dodd and Ernestine Dodd, his wife, Appellees herein, by depositing the same in a United States Post Office or mail box with first class postage prepaid, addressed to William E. Hamb, counsel of record for said W. P. Dodd and Ernestine Dodd, his wife, at his office at 950 Kanawha Boulevard, East, Charleston, West Virginia 25301, and further, that I served three copies of the foregoing Appendix upon Columbia Gas Transmission Corporation, Appellee herein, by depositing the same in a United States Post Office or mail box with first class postage prepaid, addressed to William Roy Rice, counsel of record for said Columbia Gas Transmission Corporation, at his office at P. O. Box 1273, Charleston, West Virginia 25325, and also that I served three copies of the foregoing Appendix upon Columbia Gas Transmission Corporation, Appellee herein, by depositing the same in a United States Post Office or mail box with first class postage prepaid, addressed to Thomas E. Morgan, counsel of record for said Columbia Gas Transmission Corporation, at his office at P. O. Box 1273, Charleston, West Virginia 25325.

/s/ Philip G. Terrie

Subscribed and sworn to before me by Philip G. Terrie, at Charleston, West Virginia, this 4th day of August, 1976.

My commission expires September 24, 1978.

/s/ Mary C. Matheny
Notary Public in and for
Kanawha County, West Virginia